United States Court of Appeals

for the Second Circuit



APPELLANT'S APPENDIX

74-2328 et al.

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket Nos. 74-2328 et al.

UNITED STATES OF AMERICA,

Appellee,

—v.—

HARRY BERNSTEIN, et al.,

Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

APPELLANTS' APPENDIX

Volume V—Pages C-1 to C-540

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UNITED STATES COURT OF APPEALS
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SECOND CIRCUIT

PAGINATION AS IN ORIGINAL COPY

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* Prior to trial, several of the parties to this appeal petitioned to this Court for a writ of mandamus directed to the Trial Judge, *Bernstein et al.* v. *Travia*, Docket number 73- . A four volume appendix was filed in connection with that petition. Volumes I and II of that appendix were paginated "A. ", et seq.; Volumes III and IV were paginated "B. 1", et seq. The requisite number of copies of each volume were filed with this Court.

By agreement of the parties to the instant appeal, and by order of this Court, the four previously filed volumes will constitute part of the Appellants' Appendix on this appeal.

The instant appendix of subsequent proceedings, therefore, contains Volumes V and VI, and is paginated "C. 1", et seq.

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DOCKET ENTRIES - 72 CR. 349

(Original Indictment)

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ONLY COPY AVAILABLE

Form No. 110 — CRIMINAL DOCKET — 72 CR 349

TITLE OF CASE

THE UNITED STATES

vs.

[illegible] BERNSTEIN, ROSE BERNSTEIN a/k/a Rose Shorenstei
[illegible] SERVICE CORPORATION, DUN & BRADSTREET, INC.,
[illegible] CRONIN, ALFRED FAYER, FLORENCE BEHAR,
[illegible] ARTHUR PRESCOTT, ORTRUD KAPRAKI,
[illegible] CARDONA, PATRICIA BUCKLEY, EDWARD GOODWIN,
[illegible] JAFFOWITZ, FRANK DREIS, GREVILLE HARVEY,
[illegible] COHEN, JOSEPH MONTI, IRVING FIGOWITZ, RALPH GONI
[illegible] MANUEL CARPIO, DOUGLAS HOLLENBACH and
[illegible] E. BELL.
did utter false and fraudulent state

Nathanson 1o Court St Bklyn
TR-5-2021

For defts BEHAR: Henry J. Boitel 233 Bway NYC RE-28100

For deft FAYER: Jack Korshin 370 E.Old Country Rd. PO Box 907 Mineola, NY 11501 516-PI-6-4600

for deft FRANK DREIS Theodore [illegible] 401 Broadway NYC 10006-5911

ABSTRACT OF COSTS	AMOUNT		DATE	CASH RECEIVED AND DISBURSED — NAME	RECEIVED	DISBURSED
Inc.						
...ney,						
...missioner's Court,						
...ses,						

DATE	PROCEEDINGS
8-/72	Before JUDD,J.-Indictment filed and ordered sealed by the court-Bench warrants ordered and issued as to all defts.
[illegible]-72	Before MISHLER,J.-Indictment ordered opened .
29-72	Before SCHIFFMAN, Mag- Case called-Defts HARRY BERNSTEIN, ROSE BERNSTEIN, EASTERN SERVICE CORPORATION, DUN & BRADSTREET, INC., ORTRUD KAPRAKI, EDWARD GOODWIN, IRVING FOWITZ and MANUEL CARPIO not present-Defts HERBERT CRONIN, ALFRED FAYER, FRANK DREIS, ROSE COHEN, HAROLD KELLER, DOUGLAS HALLENBACH and RICHARD E. BELL present without counsel-All other defts present with counsel-All defts that were present waive reading of indictment-Court enters plea of not guilty-Bail set at $2500.00 P.R.B. as to all defts present-30 days for motions.
30-72	Before CATOGGIO,Mag-Case called-Deft Manuel Carpio present with counsel-Deft waives reading of indictment-Court enters plea of not guilty-Bail

72 CR 349

DATE	PROCEEDINGS
	set at $2500.00-30 days for motions.
3-27-72	Notice of appearance filed as to deft Carpio.
4/4/72	Notice of appearance filed. (HALLENBACH)
4-5-72	Before TRAVIA J - Case called - Deft KAPRAKI & counsel Robert Lazarus present. Deft waives the reading of the Indictment - deft arraigned & enters a plea of not guilty - Bail of $2500.00 - personal bond.
4-5-72	Before TRAVIA J - Case called - Deft GOODWIN & counsel Kenneth Rohl present - deft waives to reading of the Indictment to all cases relating in 72 CR 350 to 350-a72CR-363 to1360- Deft GOODWIN arraigned and enters a plea of not guilty in all relating cases as indicated above - Bail of $2500 personal bond to cover all indictments.
4-5-72	Notice of Appearance filed (KAPRAKI)
4-5-72	Notice of Appearance filed (GOODWIN)
4-5-72	Notice of Appearance filed (BELL) Approved by JudgeTRAVIAto represent deft in this case. 4-5-72)
4-5-72	Bench warrants returned and filed/executed as to defts BEHAR, FEY, FAYER, CRO COHEN, HARVEY, JANKOWITZ, DREIS, GONIAS, KELLER, BUCKLEY, BELL, CARDONA and CARPIO.
4-5-72	Notices of Appearances Filed (Defts PRESCOTT, FEY, BUCKLEY, MONTI, CARDONA, JANKOWITZ, GONIAS, BEHAR.)
4-5-72	Notice of appearance filed. (FAYER)
4-7-72	Notice of appearance filed as to deft FRANK DREIS.
4-10-72	Notice of Appearance filed (KELLER)
4-10-72	Notice of Motion filed, ret. May 26, 1972 before Travia, J.at Westbury for Discovery and Inspection, Bill of Particulars, etc. (deft MONTI)
4-11-72	File 72M696 inserted into criminal file (judge has file).
4-12-72	Magistrate files 72M697 through 72M713, and 72M807 & 808 & 815 inserted into criminal file (Judge has file.),
4-12-72	Notice of Appearance filed (FRANK FEY)
4-12-72	Before Travia J - Case called - Deft FIGOWITZ present without counsel - Deft waives reading of Indictment - deft arraigned and enters a plea of not guilty - $2500 personal bond - all motions to be made by May 26, 1972 - deft to obtain counsel.
APR 13 1972	BEFORE TRAVIA, J., Case Called Dun & Bradstreet through Mr. Charles Raike as Vice President & General Counsel of the Corporation enters a plea of not guilty. All motions by 5-26-72. Case adjourned to then at Westbury, L.I.
4-13-72	Notice of appearance filed as to deft corp DUN & BRADSTREET, INC.
4-[illegible]-72	Before TRAVIA J - Case called - defts HARRY & ROSE BERNSTEIN & counsel not present - adjd to 4-20-72 for pleading.

DATE	PROCEEDINGS
4-19-72	Notice of Motion filed, ret. 4-28-72, for dismissal of the Indictment (deft GONIAS)
4-19-72	Notice of Motion filed, ret. 4-28-72, for Bill of Particulars, Inspection, for severing the trial etc. (deft GONAS)
R 20 1972	BEFORE TRAVIA, J. Case Called Defts HARRY BERNSTEIN & ROSE BERNSTEIN & counsel Henry J. Boitall for Abraham Brodsky present. Defts waive reading of indictment. Defts arraigned & each enters a plea of not guilty. All motions by 5-26-72. Bail at $2,500.00 personal bond for each.
4-20-72	NOtice of appearance filed as to HARRY BERNSTEIN & ROSE BERNSTEIN.
4-21-72	Notice of appearance filed as to deft MELVIN CARDONA.
4-21-72	Notices of motion as to deft MELVIN CARDONA returnable 4-28-72 filed for discovery and inspection, for an order requiring the US Attorney and the FBI to provide defense counsel with copies of investigation reports in this matter, for disclosure of witness-evidence recovered by search and seizure or process-all evidence favorable to accused, for bill of particulars, for suppression of oral and tangible evidence.
4-21-72	By Travia J - Letter dated April 20, 1972 from counsel for defts Harry & Louis Bernstein filed , So Ordered by Judge Travia for enlargement of bail conditions, etc.
4-24-72	By TRAVIA, J. - Letter dated April 21, 1972 from ALFRED FAYER filed. So ordered by Judge TRAVIA for enlargement of bail conditions.
4-24-72	Magistrates proceedings as to defts. ROSE & HARRY BERNSTEIN, & HARRY HOROWITZ inserted in Criminal file received from Clerk, U.S. District Court, Miami, Fla. & filed - acknowledgment mailed to Clerk for for receipt of same.
4-25-72	File 72M872 inserted into criminal file. Judge has file.
4-27-72	By Travia J - Order filed substituting counsel Samuel Resnicoff by Booth, Lipton & Lipton, Esqs, for deft JOSEPH JANKOWITZ.
4-27-72	File 72M819 inserted into criminal file (Judge has file).
5-1-72	By Travia J - Order filed substituting counsel Irving Klein, Esq. in place of(deft Melvin Cardona) Morris Hutter, Esq.
5-10-72	Notice of motion to dismiss etc., ret 5-26-72 at 10 A.M. as to deft GRENVILLE HARVEY filed.
5-13-72	Notice of appearance filed as to deft IRVING FIGOWITZ.
5-16-72	Letter dated May 9, 1972 from O'Rourke, Milner & Friedman, Esqs. filed (received from Chambers of Judge MISHLERre bail limits. Bail limits are extended to the area indicated for the period May 25, 1972 to May 30, 1972. (RICHARD E. BELL)

DATE	PROCEEDINGS
5-17-72	Notice of Motion filed ret. May 26, 1972 at Westbury, for Bill of Patriculars (Hollenbach)
5-17-72	Notice of Appearance filed (Hollenbach)
5-18-72	Notice of Motion filed, ret. May 26, 1972 at Westbury, N.Y. as to deft BELL, for 1) for Inspection of Grand Jury Minutes or to dismiss 2)For identification hearing 3) Motion for Bill of Particulars 4) Motion to Inspection and 5) for a severance as to deft BELL, with Memorandum of Law.
-18-72	Notice of Motion filed ret. May 26, 1972 at Westbury, N.Y. as to deft ALFRED FAYER , for modifying the restriction of travel, etc.
5-18-72	Notice of Motion filed, ret. May 26, 1972 at Westbury, N.Y. as to deft JANKOWITZ for severance, Bill of Particulars and Discovery & Inspection., with Memorandum of Law.
5-26-72	Before Travia J - Marked off calendar with the right to restore to calendar. (Bernstein motions)
6-2-72	Stenographers transcript dated April 13, 1972 filed (Dun & Bradstreet)
6-19-72	Letter dated 6-16-72 from Edward Brodsky received from chambers & filed requesting that Louis Bernstein be permitted to go to Washington 6-19-72.
6-19-72	By TRAVIA, J. - Order filed (on botton of letter dated 6-16-72) allowing Louis Bernstein to go to Washington.
8-2-72	Letter of July 31, 1972 from Harold Keller, Esq. filed. re deft Hollenbach stating deft Hallenbach is deceased)
10-2-72	Voucher for compensation of counsel filed (GREVILLE HARVEY).
10-2-72	Letter dated 10-2-72 from Mark Landsman re new counsel for deft GREVILLE HARVEY filed in 72CR-349.
1/22/73	Before TRAVIA, J.- Case called- On motion of AUSA Accetta the indic is dismissed -Motion granted (as to deft FRANK DREIS)
1/22/73	By TRAVIA, J.- Order of Dismissal filed. (DREIS)
2-2-73	Before Travia J - Case called - Deft FEY & counsel Gustave Newman present On motion of Asst Baker the Indictment is dismissed. Motion granted.
2-2-73	By Travia J - Order of dismissal filed (FEY)
2/13/73	Stenographer's transcript of 2/2/73 filed.
[illegible]	[illegible]
10-3-73	Before Travia J - Case called - On motion of Asst US Atty De Petris the Indictment is dismissed as to deft Patricia Buckley -Motion granted.
10-3-73	By TRAVIA J - Order of dismissal filed (PATRICIA BUCKLEY)
9-19-74	Before Travia J - case called - deft Bell & counsel M.J.O'Rourke present on motion of AUSA Accetta the Indictment is dismissed. Motion granted.
9-19-74	By Travia J - Order of dismissal filed (BELL)

DATE	PROCEEDINGS
-20-74	Before Travia J - case called - Deft Goodwin & counsel Kenneth Rohl present. On motion of AUSA Accetta the INdictment is dismissed. Motion granted.
9-20-74	By Travia J - Order of dismissal filed (Goodwin)
9-24-74	Before Travia J - Case called - deft Rose Cohen & counsel Wm. Erlbaum present - On motion of AUSA Accetta the Indictment is dismissed.
9-24-74	By Travia J - Order of dismissal filed (ROSE COHEN)
9-27-74	Before Travia J - case called - deft Kapraki & counsel Robert Lazarus present. On motion of AUSA Accetta the Indictment is dismissed (Kapraki)
9-27-74	By Travia J - Order of dismissal filed (Ortrud Kapraki)
11/22/74	Before TRAVIA,J.- Case called- Deft MANUEL CARPIO and counsel present- On motion of A.U.S.A. Caden the indictment is dismissed
11/22/74	By TRAVIA,J.- Order of dismissal filed(CARPIO
11-25-74	By TRAVIA J - Order filed that Indictment be dismissed as to defts DUN & BRADSTREET, INC. & ARTHUR PRESCOTT.
12-14-74	Letter filed received from Chambers from R.De Petris dated 12-9-74 indicating that Indictments as to defts MONTI, FIGOWITZ, GONIAS, HOLLENBACH & HAROLD KELLER are dismissed. (see Judges notation and order on page of the letter stating that the Indictments be dismissed as to the above named defts. Parties notified.
12-14-74	By WEINSTEIN J - Order of dismissal filed as to defts MONTI, FIGOWITZ, GONIAS, HOLLENBACH & HAROLD KELLER.

C 8

DOCKET ENTRIES - 72 CR. 587

(Superseding Indictment)

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C 9

72CR-588 thru 72CR [illegible] 72CR-846

CRIMINAL DOCKET 72CR 587

TITLE OF CASE

THE UNITED STATES

vs.

HARRY BERNSTEIN, ROSE BERNSTEIN, a/k/a Rose Shorenstein
EASTERN SERVICE CORPORATION, DUN & BRADSTREET, INC.,
HERBERT CRONIN, FLORENCE BEHAR, FRANK FEY, ARTHUR PRES
OSCAR KAPRAKI, MELVIN CARDONA, PATRICIA BUCKLEY,
EDWARD GOODWIN, JOSEPH JANKOWITZ, FRANK DREIS,
NEVILLE HARVEY, ROSE COHEN, JOSEPH MONTI,
IRVING FIGOWITZ, RALPH GONIAS, HAROLD KELLER,
MANUEL CARPIO, DOUGLAS HOLLENBACH and RICHARD E. BELL.

Government requests Westbury trial.

False statements for mortgage insurance, bribe
federal employee, receive bribe.

14 Wall St., NYC.
732-1040
deft. CARDONA:
Irving Klein
168-30-89th Avenue
Jamaica. NY.
JA 6-3100
deft BEHAR:
Henry J. Boitel
233 Broadway, NYC.
RE 2-8100
deft KAPRAKI:
Robert Lazarus
16 Court St., Bklyn, NY
855-2200
deft. MONTI:
Stephen Laffer
16 Court St., Bklyn, NY
UL 5-8855

ABSTRACT OF COSTS	AMOUNT	CASH RECEIVED DATE	NAME					
[illegible] (Loan)	1500 00	10/4/74	Behar/Boitel (20 K) Behar-Cardona					
Cohen (Loan)	2500 00							
[illegible] (Loan)	500 00	10-8-74	Notice of Appeal	Kapraki Rose Cohen Def'ts				
Bernstein	50000 00	10-9-74	Paid to Treas					
	17000 00	10-11-74	Paid on ale Fine	Ro Cohen				
	21000 00							
Bernstein	175000.00	10-15-74	Paid to Treas				5000	—
Eastern Service	460000.00	10-21-74	Paid on ale Fine	Rose Cohen	2000	—		
		10-22-74	Paid to Treas				2000	—
		11-19-74	Paid Fine	Edward Goodwin	5000	—		
		11-20-74	Paid to Treas				5000	—

PROCEEDINGS

	Before WEINSTEIN, J. - Superseding Indictment filed.
-72	Before Travia J - Case called -Deft BELL & counsel M.Milner present - deft waives reading of Indictment and enters a plea of not guilty - Bail continued which was posted in prior indictment.
-24-72	Notice of Appearance filed (BELL)
-30-72	Notice of Appearance filed (FIGOWITZ)
-26-72	Notices of Appearance filed (Defts. Goodwin, Cronin, Harry Bernstein, Gonias, Hollenbach, Harry Bernstein, Cardona, Behar Jankowitz, Kapraki & Monti.)
-26-72	Before TRAVIA J - Case called - Defts present with counsel - Defts waive reading of the Indictment and enter pleas of not guilty - Bail posted in prior indictments continued - all motions to

DATE	PROCEEDINGS
	be returnable on July 21, 1972. This plea is on all indictments from 72CR587 to 599 incl., (HARRY BERNSTEIN, HARRY PRESCOTT, FEY, CARPIO, DUN & BRADSTREET, BUCKLEY, CARDONA, JANKOWITZ, KAPRAKI, HOLLENBACH, KEL GONIAS, FIGOWITZ, MONTI, HARVEY, DREIS, CRONIN, BEHAR, EASTERN SERVICE CORP., ROSE BERNSTEIN, ROSE COHEN & EDWARD GOODWIN), PRESCOTT & KELLE
6-9-72	Notice of Motion filed for Bill of Particulars, Notice of Motion for Inspection and for severance etc (Jankowitz)all ret. July 14, 1972.
6-21-72	Notice of Motion for dismissal of part of count 1 (ret. July 14, 1972) (deft Melvin Cardona)
-21-72	Notice of Motion filed, for Bill of Particulars, ret. July 14, 1972.
6-21-72	Notice of Motion filed, ret. July 14, 1972 for investigative reports, et
6-21-72	Notice of Motion filed for Discovery & Inspection (ret. 7-14-72-Cardona
6-21-72	Notice of Motion filed, ret. July 14, 1972, for disclosure of witness evidence recovered by search and seizure, etc. (Cardona)
6-30-72	Notice of motion filed for dismissal ret. 7-14-72 re RALPH GONIAS.
6-30-72	Notice of motion filed ret. 7-14-72 as to deft RALPH GONIAS for a bill o particulars, inspection, disclosure of evidence favorable to the deft, a severance.
7-5-72	Notice of Motion filed , ret. 7-14-72, for Inspection of Grand Jury Minutes, for dismissal of the Indictment , Bill of Particulars and for severance (deft RICHARD BELL)
-6-72	Notice of Motion filed ret. July 14, 1972 at Westbury, for Bill of Particulars, dismissing all counts and for Inspection (deft PRESCOTT)
7-6-72	Joint and several motions for pre-trial relief filed, ret. 7-14-72 conc the order of the trial, severance, dismissal, discovery, inspection of grand jury minutes, suppression, a bill of particulars, injunction agai infiltration, and disclosure by govt of flow charts concerning FHA mort etc, and memorandum in support of defts? motions for pre-trial relief f
7-7-72	Notice of motion filed ret. 7-14-72 re HOLLENBACH for discovery & inspe ion of the grand jury minutes & granting discovery & inspection of the documents submitted to the FHA.
7-7-72	Notice of motion filed ret. 7-14-72 re HOLLENBACH for seperate trial on all counts in the indictment against him, etc.
7-7-72	Notice of motion filed by DUN & BRADSTREET, INC. ret. 7-14-72 for seve bill of particulars, inspection, and exculpatory information, and memo support filed.
7-7-72	Notice of motion & memo in support filed re IRVING FIGOWITZ for dismiss

CONTINUED

DATE	PROCEEDINGS
	severance, discovery and inspection, a bill of particulars, requesting trial be held in Brooklyn, etc. returnable 7-14-72.
-10-72	Notice of motion and memo in support filed as to HAROLD KELLER ret. 7-14-72 for a bill of particulars, order of dismissal, severance, discovery & inspection, & trial in Brooklyn.
-11-72	Notice of motion filed ret 7-14-72 re ROSE COHEN for dismissal, severance, inspection, bill of particulars, etc.
-12-72	Notice of motion filed for severance re JOSEPH MONTI.
-12-72	Notice of motion filed for discovery & inspection, & bill of particulars re JOSEPH MONTI.
-12-72	Notice of motion, affidavit of service, & memo in support filed re HERBERT CRONIN ret. 7-14-72 for dismissal, severance, discovery and inspection, and a bill of particulars.
14-72	Before TRAVIA, J.-Case called and adjd to 9-5-72 at 10 AM.
21-72	Notice of Motion filed ret. Sept. 5, 1972, for severanc e as to deft Melvin Cardona
-31-72	Govt motion for reciprocal discovery under rule 16(c) filed ret 9-15-72 and memo in support.
-31-72	Govt motion to amend & memo in support filed ret 9-15-72.
-31-72	Govt affidavit in opposition & memo in support filed.
-31-72	Two govt affidavits in opposition filed.
-31-72	Nine govt affidavits in opposition filed.
-31-72	Govt affidavit of service by mail filed.
-5-72	Before TRAVIA, J. - Case called. - JOSEPH MONTI's motion for discovery & inspection & severance submitted. - MICHAEL S. GOODMAN's motion for a bill of particulars submitted. - DONALD SHERMAN's & FLATBUSH EQUITY CORP's motion for all orders requested in the motions made by co-defts, insofar as the same may be applicable to defts submitted. - GERALD COTTER's, DUN & BRADSTREET's, MELVIN RUBEN's & APOLLO ESTATES CORP's motions to dismiss submitted. - LOUIS BERNSTEIN's & ARTHUR PRESCOTT's motions for bill of particulars submitted. - IRVING FIGOWITZ's motion to dismiss counts 1 & 5 submitted. - HARRY BERNSTEIN's & ROSE BERNSTEIN's motion for an order pursuant to Rules 7(d) & 17(1) of FRCP submitted. - HAROLD KELLER's motion for bill of particulars, dismissal of certain counts, severance, discovery & inspection & removal of trial to Brooklyn submitted. - ROSE COHEN's motion for dismissal, severance, inspection, bill of particulars, submitted. - Deft BELL's motion for inspection & dismissal submitted.- DOUGLAS HOLLENBACH's motions for severance, discovery & inspection sub-

DATE	PROCEEDINGS
	mitted. - RALPH GONIAS'S motions to dismiss & bill of particulars submitt
	MELVIN CARDONA's motions for dismissal, bill of particulars, inspection,
	disclosure of witness' evidence & severance submitted. - JOSEPH JANKOWITZ
	motions for severance, bill of particulars & inspection submitted. - HERB
	CRONIN's motion submitted. - All decisions reserved.
-12-72	Before Travia J - Case called - Deft Dries & counsel Theodore Krieger
	p esent - deft arraigned and withdraws his plea of not guilty after being
	advised of his rights by the countand enters a plea of guilty to counts
	100 and 106 - Bail continued - sentence adjd without date.
9-14-72	Affirmation in opposition to government's motion for reciprocal discovery
	under Rule 16(c) FRCP filed by counsel for deft MELVIN CARDONA.
9-14-72	Reply memorandum filed in support of deft DUN & BRADSTREET'Motions to
	dismiss the indictment, etc.
9-18-72	Before TRAVIA, J. Case called.Adjd to 10-6-72 at 10:00 am.
9/15/72	Before Travia,J.-Case called-for hearing on govt's motion for reciprocal
	discovery-Mtion denied w/o prejudice.
-15-72	Before TRAVIA, J. - Case called. - Three motions of deft JANKOWITZ. Motic
	argued. Consented in part. Granted in part & denied in part. - Two motion
	of deft NATHANSON argued. Consented in part. Granted in part & denied in
	part. - Two motions of deft MONTI argued. Consented in part, granted in
	part & denied in part. - Deft FIGOWITZ's motion to dismiss argued, Con-
	sented in part, granted in part & denied in part. - Six motions of deft
	CARDONA argued. Decision reserved. - Deft BELL's motion for inspection of
	grand jury minutes. Decision reserved. - Deft PRESCOTT's motion for a bil
	of particulars. Decision reserved. - Deft DUN & BRADSTREET's motion to
	dismiss. Decision reserved. - Deft HOROWITZ's motion for inspection, bill
	of particulars, severance. Decision reserved. Defts RUBEN & APOLLO ESTATE
	CORP for dismissal. Decision reserved. - Defts OCKO & TANNEN's motion fo
	bill of particulars, discovery & inspection. Decision reserved. Deft OCKO
	& TANNEN's motion for severance. Decision reserved. - Deft KELLER's motic
	bill of particulars, discovery, etc. Decision reserved. - Deft COHNE's
	motions argued. Decision reserved. - Deft HARRY BERNSTEIN, ROSE BERNSTEIN
	CRONIN's motions argued. Consented in part, granted in part, denied in p
9-15-72	Affirmation of counsel for deft FIGOWITZ filed.
9-15-72	Affirmation of counsel for deft GONIAS filed.
9-15-72	Affidavit of counsel for deft JANKOWITZ filed.
9-15-72	Affidavit of service filed.
9-15-72	Notice of cross motion & answering papers filed ( ).

continued

DATE	PROCEEDINGS
-15-72	Joint affirmation in response to govt's motion for amendment of indictment filed.
-15-72	Reply memorandum in support of deft's motion for pre-trial relief filed re Harry & Rose Bernstein, Eastern Service Corp, Patricia Buckley, Emanuel Hirsch & Florence Behar.
-15-72	Memorandum in opposition to govt's motion to amend indictment filed.
-20-72	Notice of Motion filed by the Govt & Memorandum of Law in suppor t of Govts motion to amend and correct typographical and clerical errors contained on following indictments: 72 CR-587, 588, 590, 591, 592, 594, 595, 598 and 72 CR-599. (ret. 10-6-72)
0-4-72	Govt's memorandum of law in opposition to omnibus motions by defts filed.
-6-72	Before Travia J - Case called - Motion to correct indictments etc. Motion argued - Decision Reserved.
0-17-72	Stenographer's transcript filed dated 10-6-72.
-19-72	By TRAVIA, J. - Decision & order filed amending indictment.
-20-72	By TRAVIA, J. - Decision & order filed. Motions granted & denied as indicated. (See order).
2-12-72	Before Travia J - Case called Deft ORTRUD KAPRAKI, EDWARD GOODWIN, ROSE COHEN & counsels present - Defts withdraw their pleas of not guilty and after being advised of their rights by the court and on their own behalf enter pleas of guilty to count (1) defts waive reading of the balance of the Indictment - deft Rose Cohen waives reading of the Indictment (count 2 thru count 211) Bail continued and sentences adjd without date as to all 3 defts.
27-72	3 Stenographers transcripts filed all dated Dec. 12, 1972 (EDWARD GOODWIN, ORTRUD KAPRAKI, ROSE COHEN)
22/73	Before TRAVIA, J.- Case called- Deft FRANK FEY and counsel present. Deft sentenced to imprisonment for a period of 4 yrs. on ct. 1 and 4 yrs. on each of cts 100 and 106 to run concurrently with sentence imposed in count 1-Stay of execution of sentence is granted to 2/2/73 at 4:00 P.M.-Bail cont'd.
2/73	Judgment and Commitment filed. Copies sent to Marshall.
4/73	Stenographer's transcript of 7/6/73 filed.
6/73	Stenographer's transcript of 1/22/73 filed.
-73	Before TRAVIA J - Case called - Deft FEY & counsel Gustave Newman present. On motion of Asst US Atty Behar the Indictment is dismissed. Motion granted.
2-73	By TRAVIA J - Order of dismissal filed (FRANK FEY)

DATE	PROCEEDINGS
2/5/73	Stenographer's transcript of Sept. 12, 1972 filed.
[illegible]	
2/13/73	Stenographer's transcript of 2/2/73 filed.
2/16/73	Stenographer's transcript of 9/15/72 filed.
2/28/73	Certified copy of Judgment and Commitment retd and filed/Executed. De delivered to Fed. Det. Hdqs.
3/5/73	Before TRAVIA, J. - Case called- Sentence adjd to 4/27/73 at request attys
3/22/73	Motion for Dismissal of Indictments and Alternative Relief filed, Mem in Support of moti ons for dimmissal of indicement and alternative re filed, Affidavit of disqualification of Honorable A. TRAVIA, filed, Mem in support of affidavit of disqualification of Honorable A. Travàa, f and Appendix of Proceedings Related to Affidavit of Disqualification able Tràivàa filed.
3/22/73	Notice of Motion filed, ret. 3/30/73 re: for an order dismissing the and Memorandum in Support fil
3-19-73	Before TRAVIA J - Case called - sentence of deft GOODWIN adjd to 4-27-
3/27/73	Notice of Motion filed, ret. 3/30/73 re: for an Order pursuant to Rul
3/27/73	Govt's Bill of Particulars filed.
3/27/73	Notice of Readiness for Trial filed.
3/29/73	Affidavit in Opposition filed. and Govt's Memorandum of Law filed (72 599)
3-29-73	Supplemental Affidavit filed in support of motion for dismissal of the Indictment. (Dunn & Bradstreet)
3/30/73	Before TRAVIA, J.- Case called- Motion to dismiss argued and denied-Su mit Order. (Prescott)
3/30/73	Before TRAVIA , J.- Case called-Motion to dismiss argued and denie (Dunn and Bradstreet, INC.)
3/30/73	Before TRAVIA, J.- Case called- Motion for the disqualification of J TRAVAI, argued and denied-Submit order. and Motion to dismiss (BERNS - EASTERN SERVICE, BEHAR , BUCKLEY, HIRSCH) argued and denied-Submit o (This entry relates to all cases involved 73CR587-599).
4/3/73	Stenographer's transcript of 3/30/73 filed. (relates fo 588-599 a
4-9-73	By TRAVIA J -Order filed denying defts motion for disqualification of judge Travia. (HARRY BERNSTEIN, ROSE BERNSTEIN, LOUS BERNSTEIN FLORENCE BEHAR & EASTERN SERVICE CORP.)
4-9-73	By TRAVIA J - Order filed denying defts motion for dismissal of the Indictment (HARRY & ROSE BERNSTEIN, EASTERN SERVICE CORP. PATRICIA

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DATE	PROCEEDINGS
	BUCKLEY, EMANUEL HIRSCH, FLORENCE KLEAR, LOUIS BERNSTEIN, DUN AND BRADSTREET, INC. ARTHUR PRESCOTT, COTTER, RUBEN, APOLLO ESTATES CORP. and ALFRED FAYER)
23/73	By TRAVIA, J.- Order filed, that within 7 days from the filing of this order, each atty named in Schedule A, attached hereto, submit to the Court his affidavit stating that he has instructed his client as to the nature of conflict of interest, etc (see order), and this order is effective in docket entries # 72CR587-72CR599
4-26-73	Affidavit of MOSES L. KOVE filed. (placed in 72 CR 587 and covers 72 CR587 to 599)as to defts DONALD SHERMAN & FLATBUSH EQUITY CORP.)
4-27-73	Before Travia J- Case called - sentences adjd to September 28, 1973 (EDWARD GOODMAN) ROSE GOLDEN & KAPRAKI)
4-30-73	Affidavit of ABRAHAM BRODSKY filed
3/73	Order read and filed from the 2d. of 4. that the joint petitions for Writ of Mandamus are denied. (BRADSTREET, J.KAPLAN, E.HIRSCH, P.BUCKLEY, [illegible] SERVICE CORP.)
8/73	Notice of Motion filed, ret. 5/14/73 re: to withdraw representation as an atty.
4/73	Before TRAVIA, J. Case called - [illegible] counsel [illegible] present. Motion to be relieved as counsel is denied without prejudice. [illegible], J. [illegible] withdrawing counsel.
4/73	Financial Affidavit filed.
4/73	Before TRAVIA, J. - Case called - Court appoints L. Lazar as counsel for deft G. Weiss-Brest and [illegible] counsel stated Case not ready for trial on Oct. 1, 1973 for trial.
5-18-73	Before TRAVIA J - Order modifying Judgment & Commitment of Jan. 22, 1973 filed as to deft DREIS. Deft is sentenced to imprisonment for 4 years on count 1 and 4 years on each of counts 100 and 106 pursuant to 18:4208(a)(2) sentenced on counts 100 and 106 to run concurrently with sentence in count 1 - certified copies to Marshal.
/73	Stenographer's transcript of 5/14/73 filed.
-73	Notice of Motion filed, ret. June 15, 1973, for dismissing the indictment, Bill of Particulars(Deft Dun & Bradstreet) and Memorandum in support of Motions etc.
5/73	Gov't Memorandum of Law in Opposition to Omnibus Motion for Defendant Dunn and Bradstreet.
5/73	Before TRAVIA, J.- Case called- Motion to be releived as counsel denied (DUN) Motion to dismiss the indictment is denied. (DUN & BRADSTREET)

DATE	PROCEEDINGS
-19-73	Notice of Motion filed, ret. 9-11-73, as to deft Melvin Cardona, for relieving counsel Irving J. Klein, etc.
7/20/73	Before TRAVIA, J.- Case called- Deft CARDONA and counsel Klein present- Motion to be relievdd as counsel-Motion denied.
7/24/73	Before TRAVIA, J.- Case called- Hearing on conflict of interest begun- Hearing cont'd to July 25, 1973 at noon.
7/25/73	Before TRAVIA, J.- Case called- Hearing on conflict of interest cont'd- Court finds that there is a [illegible] conflict of interest as t deft F. BEHAR-Counsel Boitel has withdrawn as counel-Court finds that t is a [illegible] conflict of interest as to deft P. BUCKLEY-Counsel A. Brodsky has withdrawn as counsel-Defts Behar and Buckley to return 7/27/73 at 12:00 noon-Hearing concluded.
7/27/73	Before TRAVIA,J.- Case called- Deft Carpio present, Court appoints Gu Weiss as counsel.- Deft, Buckley present, Court appoints Thomas J. O' as counsel- Deft. Behar present, Court appoints Richard I. Rosenkranz as counsel
-27-73	3 Financial Affidavits filed (re defts FLORENCE BEHAR, PATRICIA BUCKLEY and MANUEL CARPIO)
-27-73	By Travia J - Order apptg counsel filed (defts Behar, Buckley & Carpio)
9/11/73	By TRAVIA,J.- Order of substitution filed for deft Rose Bernstein (Ins in this filed)
9-17-73	[illegible] Govts witness list filed
9/20/73	Notice of motion for co-counsel, for deft Greville Harvey, ret. 10/1/ filed
9/20/73	Notice of motion and Memorandum of law filed for severance,bill of par etc, ret. 9/28/73 (DUN and [illegible] INC.)
-21-73	Before Travia J - Case called on motion for substitution of attorney. for deft Richard Bell - motion withdrawn (73 CR-863 relates.)
9-25-73	Notice of Appearance filed (Ralph Gonion)
/26/73	Supplemental Affidavit of OTTO C. [illegible] filed.
9/26/73	Stenographer's transcript of 9/21/73 filed (1 page)
9-27-73	By TRAVIA, J. - Order to show cause for an order requiring production of documents ret 10-1-73 at 10 A.M. with memorandum of law filed (Dun & Bradstreet).
9-27-73	By TRAVIA, J. - Order to show cause dtd 9-27-73 for an order to adjourn rial, ret 10-1-73 at 10 A.M. with proof of service filed.
9/28/73	Notice of Motion , ret. 10/1/73 filed. re: for severance (HERBERT CRO
-28-73	Before TRAVIA,J.-Case called-Adj'd to 10-1-73 for sentence as to defts Cob Kaprall and Goodin and to 10-1-73 for decision on deft's motion.

DATE	PROCEEDINGS
1-73	Before TRAVIA J - Case called on motion for severance, etc. Motion argued - Motion denied (HERBERT CRONIN & HARRY BERNSTEIN)
1-73	Before TRAVIA J - Case called on defts motion for co-atty(Harvey) Marked Off Calendar.
1-73	Before TRAVIA J - Case called on Order to Sow Cause why an adjournment should not be granted in the trial, etc. Motion argued - Motion denied.
1-1-73	Notice of Appearance filed as to deft Melvin Cardona)
1-1-73	Before TRAVIA J - Case called - all defts & counsels present - Case marked Ready - Govts motion to sever as to defts JOSEPH MONTI, GREVILLE HARVEY, MANUEL CARPIO, RALPH GONIAS, IRVING FIGOWITZ & HAROLD KELLER - Motion granted. Oral application by Mr. Brodsky to renew motions to dismiss as to deft Harry Bernstein and Eastern Service Corp. etc. Motion argued - Motion denied. Govts motion to sever the following counts as to all defts. 7, 8, 9, 15, 16, 17, 22, 23, 25, 29, 30, 31, 38, 39, 42, 43,44, 45, 48, 49, 50, 51, 52, 53, 54, 56, 65, 68, 71, 74, 77, 80, 83, 86, 87, 88, 91, 92, 93, 95, 96, 99, 100, 103, 104, 105, 106, 109 and 110 - Motion granted. Govts motion to dismiss the following counts as to deft Herbert CRONIN 89, 90, 93, 94 & 189 - Motion granted.Govts motion to sever the following defts from the trial GOODWIN, FEY, ROSE COHEN, FRANK DREIS, KAPRAKI, RICHARD BELL & DOUGLAS HOLLENBACH - motion granted. Case adjd to Oct. 2, 1973 at 10:00 am.
2-2-73	Before TRAVIA J - Case called - defts & counsels present - Deft JANKOWITZ moves for severance - Motion denied. Deft BUCKLEY & counsel Thomas O'Brien present - deft withdraws her plea of not guilty and having been advised of her rights by the court and on her own behalf enters a plea of nolo contendere to counts 1, 2, 4, 6, 10,12, 16, 26, 28, 32, 36, 38, 44, 46, 52, to 55 incl., 59, 62, 65, 68, 71, 71, 77, 80, 83, 87 to 89, 91 & 93- deft Buckley waives pre sentence report. Imposition of sentence is suspended on count 1 and deft is placed on probation for 3 years. Imposition of sentence is suspended on the/other counts above mentioned and deft is placed on probation for 3 years to run concurrently with the sentence imposed in count 1 - Trial recessed to Oct. 4, 1973 at 9:30 am.
2-2-73	Judgment and Order of Probation filed - certified copies to Probation

DATE	PROCEEDINGS
10-3-73	Before TRAVIA J - Case called - Oral application by Otto G.Obermaier on behalf of deft DUN & BRADSTREET for reduction of counts - Motion argued - Motion denied.
10/4/73	Before TRAVIA,J.- Case called- Defts and counsels present- Motion by Abr Brodsky, esq. to dismiss all counts that were severed by the Govt and in by all other attorneys etc.- Motion denied- Case called recessed unt 10/9/73 at 10:00 A.M.
10-5-73	Voucher for compensation of counsel filed (Patricia Buckley)
10/9/73	Before TRAVIA,J.- Case called- Defts and counsels present- On motion of A.U.S.A. R. DePetris to sever count 62 is severed as to all defts-Motio granted- On motion of A.U.S.A. R. DePetris to sever counts 57, 63, 66, 75, 78, 81,84, 111, 113, 124, 132, 137, 139, 141, 144, 149, 151, 159, 163, 165, 167, 175, 181, 183, 190, 192, 194, 203, 205, and 210 as to a defts- Motion granted- On motion of A.U.S.A. R. DePetris to sever coun 120, 143, 148, 177, 185, 186, 187, 188 and 209 as to deft Herbert Cron Motion granted- Case recessed to 10/10/73 at 10:00 A.M.
10/10/73	Before TRAVIA,J.- Case called- Defts and counsels present- Case contd Motion by Mr. Klein, esq. to have deft here only when case against hi on, etc. Motion denied- Motion by Mr. Brodsky,esq. to have grand jury minutes of superseding indictment etc to be sealed- Decision reserved Case recessed to 10/11/73
10-11-73	Before TRAVIA J - Case called - defts & counsels present - motion by Mr. Brodsky to have Grand Jury Minutes in Superseding Indictment be se by the Court -Asst US Attorney Accetta claims that no new evidence was presented .On question of Jurors Govt will have 6 and defts will have 2 plus 6 alternates - case receddes to Oct. 12, 1973.
10/12/73	Before TRAVIA,J.- Case called- Recessed to Oct. 15, 1973 for picking jury-All ground work has been completed.
10/15/73	Secretary's Certificate filed.
10/15/73	Petition for Writ of Habeas Corpus AdTestificandum filed. (FRANCIS - BRETS)
10/15/73	By TRAVIA,J.- Writ issued, ret. 10/19/73
10/15/73	Before TRAVIA,J.- Case called- Defts and counsels present- Selection Jurors begun- Oral application by ~~xxxxxxxxx~~ Mr. Obermaier, esq. on behalf of Dun and Bradstreet, moves to strike the amended Bill of Par culars, etc.- Motion denied- Selection of Jurors contd to 10/16/73
10/15/73	Notice of Appearance filed(Rose Bernstein- co-counsel to Mr. Sovier

DATE	PROCEEDINGS
/16/73	Before TRAVIA,J.- Case called- Defts and counsels present-Selection of Jurors cont;d-Hearing on motion by all counsels for defts to dismiss the entire jury panel, etc.-Motion held in abeyance-Jury selections KK cont'd to 10/17/73 at 10:00 A.M.
10/17/73	Notice of motion for reduction of sentence filed (FRANK DREIS)
-17-73	Before TRAVIA J - Case called - defts & counsels present - Selection of Jurors continued - selection of Jurors contd to10-18-73.
0-18-73	Before TRAVIA J - Case called - defts & counsels present - Selection of Jurors continued - selection of Jurors contd to Oct. 23, 1973.
0-18-73	Before TRAVIA J - Case called on motion for reduction of sentence (FRANK DREIS) Motion argued and granted; sentence reduced to time already served and deft is placed on probation for 3 years to run concurrently with sentence in 72 CR-588.
0-18-73	Amended Judgment and Order of Probation filed - certified copies to Marshal and Probation (FRANK DREIS)
10/23/73	Before TRAVIA,J.- Case called- Defts and counsels present- Selection of Jurors contd- to 10/25/73
10/23/73	Writ retd and filed- deft Dreis produced in Court and released to time already served
0/23/73	Certified copy of Order for reduction of sentence retd andfiled Deft DREIS delivered to Federal Detention Headquarters
0-24-73	Before TRAVIA J - Case called - defts present with counsels - selection of Jurors continued - Jury selected and sworn - Trial BEGUN - Motion by Mr. Brodsky to sismiss renumbered counts etc. and joined by all counsels etc. Motion denied - Trial continued to Oct 25, 1973.
10/25/73	Order filed from Court of Appeals denying petitions for writs of mandamus re:reduction of number of counts and severance, etc.
10/25/73	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resumed- Allen Lashley, esq. moves for a withdrawal of a Juror and for a mistrial, etc. - Motion denied- Otto Obermaier moves to dismiss the indictment against Dun and Bradstreet etc. and for severance- Motion denied- Motion by Mr. Brodsky to dismiss the indictment against Harry Bernstein and Eastern Service Corp. and joined in this motion by Joseph Soviero, Louis Martino, Allen Lashley and all other atty's- Motion denied- Mr. Brodsky's motion for withdrawal of a juror and a

DATE	PROCEEDINGS
	mistrial etc.- Motion denied- Trial contd to 10/29/73
10-29-73	Before TRAVIA J - Case called - defts & counsels present - Trial resumed Oral application by Dun & Bradstreet to have Court examine Jury on newspaper article, etc. Motion denied - Motion by Dun & Bradstreet for Mistrial - Motion denied - Trial continued to Oct. 30, 1973 @ 10:00 am.
10-30-73	Before TRAVIA J - Case called - defts & counsels present - Trial resumed - Trial contd to Oct. 31, 1973 at 11:00 am.
10-31-73	Voucher for Expert Services filed (Ha Florence Behar)
10-31-73	Before TRAVIA J - Case called - defts & counsels present - Trial resumed - Trial continued to Nov. 1, 1973.
11-1-73	Before Travia J - Case called - defts & counsels present - Trial resumed -Motion by Mr. Obermaier for withdrawal of a Juror and for a mistrial on behalf of Dun & Bradstreet, etc. and joined by all defts. Motion denied - trial contd to Nov. 5, 1973.
11/5/73	Before TRAVIA,J.- Case called- Defts and counsels present-Trial resumed Trial contd to 11/7/73
11/7/73	Before TRAVIA,J.- Case called- Defts and counsel present-Trial resumed Trial contd to 11/8/73
11-8-73	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resumed Motion by all defence counsels to have juror #6 disqualified etc.- Motion argued and denied- Trial contd to 11/12/73
11-12-73	Before TRAVIA J - Case called - defts & counsels present - Trial resumed - Trial continued to Nov. 13, 1973.
11-13-73	Voucher for expert services filed (BEHAR)
11-13-73	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resumed Trial contd to 11-14-73
11-14-73	Voucher for compensation filed (Partial payment deft Behar) Richard Rosenkranz, atty.)
11-14-73	Before TRAVIA J - Case called - defts & counsels present - Trial resumed - Mr. Soviero's motion for withdrawal of a Juror and for a Mistrial - joined by Mr. Martine & Mr. Rosenkranz - motions denied - Defts renew motions for withdrawal of a Juror and for Mistrial - Motion denied - trial contd to Nov. 15, 1973.
11-15-73	Before TRAVIA J - Case called - defts & counsels present - Trial resumed - Mr. Brodsky moves for withdrawal of a Juror and for Mistrial etc. Motion denied - trial continued to Nov. 19, 1973.
11-19-73	Before TRAVIA J - Case called - defts & counsels present - Trial resumed Oral application by Mr. Obermaier to have court examine Jurors on newspaper

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DATE	PROCEEDINGS
	articles, etc. Motion denied - trial contd to Nov. 20, 1973
-20-73	Before TRAVIA,J - Case called- Defts and counsels present- Trial resumed- Trial contd to 11-21-73
1-21-73	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resumed- Magistrates file 73M885 ordered sealed by court and kept in Judge's Chambers- Trial contd to 11-26-73 at 10:00 A.M.
1-26-73	Before TRAVIA J - Case called - defts & counsels present - Trial resumed - trial continued to Nov. 27, 1973.
11-27-73	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resumed- Motion by Mr. Soviero for the withdrawal of a Juror and for a mis-trial etc.- Motion denied- Trial contd to 11-28-73
-28-73	Before TRAVIA J - Case called - defts & counsels present - Trial resumed - Trial contd to Nov. 29, 1973.
-29-73	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resumed- Trial contd to 12-3-73 at 10:00 A.M.
1-30-73	Amendments to Gov'ts Bill of Particulars filed.
1-30-73	Petition of Melvin Cardona for assigned counsel filed.
-30-73	Memorandum of Dun & Bradstreet in opposition to Gov'ts. offer of evidence of credit reports, etc. filed.
-30-73	Monprandum of Dun & Bradstreet prior to receiving evidence from any source as to out-of-court statements, etc filed.
1-30-73	Memorandum of Dun & Bradstreet concerning the Admissibility of Hearsay Statements claimed by the Gov't to constitute "Verbal Acts file
1-30-73	Governments Memo of Law filed.
2-3-73	Voucher for Expert services filed (Florence Behar)
2-3-73	Before TRAVIA J - Case called - defts & counsels present - Trial resumed - Motion by Joseph Soviero for withdrawal of a juror - and for a Mistrial - Motion denied - Mr. Brodsky moves for withdrawal of Juror #6 etc. Motions denied - trial contd to Dec.4,1973.
12-4-73	Before TRAVIA J - Case called - defts & counsels present - Trial resumed - Trial continued to Dec. 5, 1973.
12-5-73	Before TRAVIA J - Case called - defts & counsels present - Trial resumed - application by Mr. Obermaier to have Jury examined on articles in newspaper etc. Motion denied - defts motion for a Mistrial as to Dun & Bradstreet and for a severance etc. and joined by all other counsels - Motion denied - trial continued to Dec. 6, 1973 at 10:00 am.

DATE	PROCEEDINGS
12/6/73	Before TRAVIA,J.- Case called- Deft and counsels present-Trial resumed- Trialcontd to 12/10/73
12-10-73	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resum Trial contd to 12-11-73 at 10:00 A.M.
12-11-73	Before TRAVIA,J.- Case called- Defts except Arthur Prescott who was rep ill be counsel Patrick Wall, esq. present- Trial resumed- Motion by Ott Obermaier, esq. for a mistrial and joined by all other counsel etc.- Mo denied- Trial contd to 12-12-73
12-12-73	Before TRAVIA J - Case called - defts & counsels present - Trial resume Motion my Mr. McEvoy to dismiss Indictment etc. Motion denied - motion by Mr. McEvoy to dismiss cts. 5 to 9 incl. Motion denied - motion by Mr. Lashley to dismiss counts 42, 43, 103 and 104 in the original indictment and consented to by US Atty. Motion is granted as to all def Trial continued to Dec. 13, 1973.
12-13-73	Before TRAVIA J - Case called - defts & counsels present - Trial resumed - Application by Mr. Obermaier to have Court examine Jury on Newspaper article of N.Y. Times dated Dec. 13, 1973 - Motion denied Motion to dismiss Indictment and joined in by all counsels etc. Motion denied -Motion by Mr. Obermaier for a Mistrial and for a severance of DUN & BRADSTREET - Motions denied - Trial contd to Dec. 17, 1973.
12-13-73	Stenographers transcript dated Oct. 2, 1973 filed (P.M. CIA BUCKLEY)
12-17-73	Before TRAVIA,J.- Case called- Deft Behar not present- Counsels Martin Obermaier and Klein not present due to weather- Trial contd to 12-18-73 11:30 A.M.
12-18-73	Before TRAVIA,J.- Case called- Defts and counsels present- Trial res Trial contd to 12-19-73
[illegible]	[illegible]
12-20-73	Voucher for expert services filed
12/20/73	Before TRAVIA,J.- Case called- Defts and counsels present-Trial re- sumed-Trial recessed to Jan. 2, 1974.
12/31/73	Voucher for Expert Services filed. (CT REPORTER)
2/25/74	Voucher for Compensation of Counsel filed. (...)
1-2-74	Voucher for compensation of counsel as to deft Behar forwarded to Court of Appeals for approval(excessive amount etc)
1-2-74	Before TRAVIA J - Case called - defts & counsels present - trial resume Trial contd to Jan. 3, 1974.

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DATE	PROCEEDINGS
3-74	Before TRAVIA J - Case called - defts & counsels present - trial resumed - Defts motion to strike testimony of witness Santiago etc - motion denied - motion for a Mistrial is denied - motions for severance joined by all counsel - motion denied - Motion by all counsels for a Mistrial - Motion denied - Motion by Mr. Brodsky and joined by all other counsels for the withdrawal of a Juror and for a Mistrial - Motion denied - trial contd to Jan. 7, 1974.
1-74	Before TRAVIA J - Case called - Defts and without date on account of all parties ([illegible] ARIANI and [illegible])
-74	Before TRAVIA J - Case called - defts & counsels present - trial resumed - trial continued to Jan. 8, 1974.
8-74	Before TRAVIA, J.- Case called- Defts and counsels present- Trial resumed Trial contd to 1-9-74
9-74	Before TRAVIA J - Case called - defts & counsels present - Trial resumed - 1 page from 3500-116 mkd deft R B Exhbt "C A" in evidence - motion by Mr. Soviero for a mistrial - motion denied - motion by Mr. Soviero for withdrawal of a Juror and a mistrial - and joined by all other counsels - Motion denied - trial contd to Jan. 10, 1974.
-10-74	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resumed- Motion by Mr. Brodsky to strike all testimony of witness Josephine Santiago, etc- Motion denied- Motion by Mr. Brodsky for withdrawal of a juror and for a mistrial, etc and joined by all other attorneys- Motion denied- Mr Obermaier's motion for withdrawal of a juror and for a mistrial, etc. and joined by all other attorneys- Motion denied-Trial contd to 1-14-74
14-74	Before TRAVIA J - Case called - defts & counsels present - Trial continued - 1 Blank Verification Form marked (L & B) Ex."CB" for Idnt. Motion by Mr. Soviero to have Juror #6 disqualified etc and joined in by all other counsel without prejudice - Motion granted -all alternate Jurors move up 1 seat. Trial continued to Jan. 15, 1974.
15-74	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resum Juror #6 Anne Ohmer excused from jury panel- Alternate juror # 1 Natali Kaplan now becomes juror # 6- all other alternates move up one seat Trial contd to 1-16-74
16-74	Before TRAVIA J - Case called - defts & counsels present - trial resumed - Trial continued to Jan. 17, 1974 at 10:00 am.

DATE	C 24 PROCEEDINGS
1-17-74	Before TRAVIA J - case called - defts & counsels present - Trial resume All counsels for defts move for a Mistrial - Motion denied - trial continued to Jan. 21, 1974.
1-21-74	Before TRAVIA J - case called - defts & counsels present - Trial resumed - Trial continued to Jan. 22, 1974.
xxxxxxx	
1-22-74	Memorandum in Opposition to admission into Evidence of Govts. Exhibits 134 and 135 for Identification filed.
1-22-74	Before TRAVIA J - Case called - defts & counsels present - Trial resumed - Mr. Brodsky's motion to quash subpoena, etc. Motion denied - Motion by Mr. Soviero for a withdrawal of a Juror and for a Mistrial - Motion denied - trial contd to Jan. 23, 1974.
1-23-74	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resum Trial contd to 1-24-74 at 11:00 A.M.
1-24-74	Before TRAVIA J - case called - defts & counsels present-Trial resumed Trial contd to Jan. 28, 1974.
1/25/74	Voucher forCompensation filed (as to deft F. Behar) with Affidavit (co of Richard Rosenkranz.
1-28-74	Notice of Petition of Michael Kline to represent Melvin Cardona filed.
1-28-74	By R TRAVIA J - above petition granted to represent Melvin Cardona as indicated by the Court.
1-28-74	Before TRAVIA J - case called - defts present with counsels - Trial resumed -Abraham Brodsky atty for deft Harry Bernstein made an application for withdrawal of a Juror and for Mistrial - court denied the application - Abraham Brodsky renewed his motion etc. court again denied the application-Patrick Wall, atty for deft Prescott made an application for mistrial - motion denied - Mr. Rosenkranz, Mr. Soviero Mr. Lashley all join in the motion for mistrial, etc. court denied all the motions - trial to be contd on Jan. 29, 1974.
-28-74	By TRAVIA J - Order filed for Expert Services (Melvin Cardona)Authoriz
1-29-74	Voucher for expert services filed (FLORENCE BEHAR)
1-29-74	Before TRAVIA J - case called - defts & counsels present - Trial resum Motion by Mr. Soviero for withdrawal of a Juror and Mistrial -joined by all counsels - Motion denied - trial contd to Jan. 30, 1974.
1-30-74	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resu Trial contd to 1-31-74
1-31-74	Before TRAVIA J - case called - defts & counsels present - trial resu trial continued to Feb. 4, 1974 at 10:00 am.

DATE	PROCEEDINGS
-4-74	Before TRAVIA J - case called - defts & counsels present - trial resumed - trial contd to Feb. 5, 1974 at 10:00 am.
2-5-74	Before TRAVIA J - case called - defts & counsels present - trial resumed - Trial contd to Feb. 6, 1974 at 10:00 am.
2-6-74	Memorandum filed in opposition to the admission as against DUN & BRADSTREET of certain conversations of Edward Goodwin including any proposed trial testimony of Goodwin, any tape recordings of those conversations and any transcripts thereof.
-6-74	Before TRAVIA J - case called - defts & counsels present - Trial resumed - Trial continued to 2-7-74.
-7-74	Before TRAVIA J - case called - defts & counsels present - Trial resumed - Trial contd to Feb. 13, 1974.
-13-74	Before TRAVIA J - case called - defts & counsels present - Trial resumed - motion by Mr. Obermaier to examine Jurors on Article & joined by all other counsel; granted in part; motion for dismissal and for a mistrial is denied. Trial contd to Feb. 14, 1974.
2-14-74	Before TRAVIA J - case called - defts & counsels present - Trial resumed - trial contd to Feb. 19, 1974., at 10:00 am.
-19-74	Govts Memorandum of Law filed.
-19-74	Before TRAVIA,J.- Case called- Deft PRESCOTT excused by Court- All other defts and counsels present- Trial resumed- Motion by Mr. Brodsky and joined by all other counsel for withdrawal of a Juror and for a mistrial -Decision reserved- Trial contd to 2-20-74
2-20-74	DUN & BRADSTREET'S Memorandum of Law filed in opposition to the Govts Proffer of Evidence of similar acts of bribery of EDWOOD GOODWIN and in the alternative in support of a motion for severance pursuant to Rule 14 etc.
-20-74	Before TRAVIA J - case called - deft Prescott excused by court all other defts & counsels present - trial resumed - all defts motions for withdrawal of a juror and mistrial, etc. Motions denied - trial contd fo Feb. 21, 1974.
-21-74	Voucher for expert services filed (Bain)
-21-74	Before TRAVIA,J.- Case called- Deft Prescott excused by Court- All other defts and counsels present- Trial resumed- Trial contd to 2-25-74
-25-74	Before TRAVIA J - case called - defts & counsels present -Trial resumed - Motions by all counsels for a withdraval of a Juror and for a mistrial etc. Motion denied - Trial contd to 2-26-74.

DATE	PROCEEDINGS
2-26-74	Before TRAVIA J - case called - defts & counsels present - trial resumed - motion by Mr. Brodsky & Mr. Soviero for a Mistrial - Motion denied - trial contd to Feb. 27, 1974.
2-27-74	Before TRAVIA J - case called - defts & counsels present - Trial resumed - Mr. Brodsky's motion to strike testimony etc. Motion denied - trial contd to Feb. 28, 1974.
2-28-74	Before TRAVIA J - case called - counsel Andrew McEvoy, counsel for Eastern Service Corp. reported ill - all defts & counsels present - Trial resumed - application by Mr. Soviero to have court adjourned for the day, etc. Application granted - trial contd to Mar.4,1974.
3-1-74	Voucher for compensation of counsel filed (BEHAR)
3-4-74	Before TRAVIA,J.- Case called- Deft and counsels present- Trial resume Trial contd to 3-5-74
3-5-74	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resum Trial contd to 3-6-74
3-6-74	Before TRAVIA J - case called - defts & counsels present - Trial resumed - trial contd to March 7, 1974.
3-7-74	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resum Trial contd to 3-11-74
3-11-74	Before TRAVIA J - case called - defts & counsels present - Trial resumed - Motion by Mr. Brodsky, Mr. Soviero & Mr. McEvoy for the withdrawal of a Juror and for Mistrial - Motion denied - Trial continued to Mar. 12, 1974.
3-12-74	Before TRAVIA J - case called - defts & counsels present - Trial resumed -Motion by Mr. McEvoy atty for Eastern Service Corp. for a severance etc. and joined in the motion by Mr. Brodsky, Mr. Soviero, Mr. Martine, Mr. Rosenkranz & Mr. Lashley - Motion denied - trial contd to March 13, 1974.
3-13-74	Before TRAVIA J - case called - defts & counsels present - Trial resumed - trial contd to Mar. 14, 1974
3-14-74	Before TRAVIA J - case called - defts & counsels present - Trial resumed - Motion by Mr. Martine counsel for deft Cronin for withdrawal of a Juror and a Mistrial - Motion denied - trial contd to Mar. 18, 1974.
3-18-74	Before TRAVIA J - case called - defts & counsels present - Trial resumed - Motion by Mr. Obermaier for a hearing on newspaper articles etc. Motion denied - Motion by Mr. Brodsky for withdrawal of a Juror and for Mistrial - and joined by all counsel - motion denied - motion b

DATE	PROCEEDINGS
	Mr. Obermaier for severance, etc. Motion denied - Court appoints Allan Lashley as counsel for deft JANKOWITZ, under the C.J.A. as of January 7, 1974. Order signed - Trial contd to Mar. 19, 1974.
-18-74	By TRAVIA J - Order appointing counsel filed (JANKOWITZ)
18-74	Affidavit of ALLAN LASHLEY filed.
18-74	Affidavit of Michael Klein, Esq. counsel for deft CARDONA and supplemental schedule for partial voucher executed by Mr . Klein forwarded with voucher to the Court of Appeals for approval (voucher in the amount of $3055)
-19-74	Dun & Bradstreet's Initial Request to Charge filed.
-19-74	Before TRAVIA J - case called - defts & counsels present - Trial resumed - trial contd to Mar. 20, 1974.
-20-74	Deft. DUNN & BRADSTREET'S Memo of Law in support of motion for Judgment of Acquittal filed.
-20-74	Before TRAVIA J- Case called defts. and counsels present - Trial Resumed - Trial continued to March 21,1974 at 9:45 A.M.
-21-74	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resume Stipulation read into record and consented to by all counsel-Motion by Mr. Brodsky, Mr. McEvoy, Mr. Soviero, Mr. Martine, Mr. Lashley, and Mr. Rosenkranz for withdrawal of a juror and for a mistrial and for severance etc.- Motion denied-Govt rests- Trial contd to 3-26-74
-25-74	Before TRAVIA J - case called - defts Harry & Rose Bernstein and Melvin Cardona present - all counsel present - Jury not present - arguments on Motions begun - Motion by Mr. Brodsky for deft Harry Bernstein for a Judgment of Acquittal and to dismiss counts 1, 2, 18, 20, 25 pursuant to Rule 29, etc. motions denied - Motion by Mr. Soviero to dismiss counts 1, 2, 18, 20, 25, 29, 33, 35 to 38 incl., 50 & 62 as to Rose Bernstein etc.; counts 2, 18, 20, 25 & 50 as to deft Rose Bernstein are dismissed. Motion granted.Motion by Mr. McEvoy for deft Eastern Service Corp. to dismiss pursuant to Rule 29 etc. and for a severance - all motions denied - Motion by Mr. Obermaier for deft Dun & Bradstreet to dismiss and for severance, etc. Decision Reserved - Motion by Mr.Wall for deft PRESCOTT to dismiss counts 3,6,8, 11, 19, 22, 24, 32 etc. Decision Reserved - trial contd to Mar. 26, 1974.
-26-74	Before TRAVIA J - case called - defts & counsels present - Trial resumed - motions of Mr. Obermaier & Mr. Wall made on

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DATE	PROCEEDINGS
	BRADSTREET and ARTHUR PRESCOTT - motion by Mr. Obermaier atty for deft DUN & BRADSTREET moves for Judgment of Acquittal etc. Motion denied- Motion by Mr. Martin, atty for deft CRONIN for Judgment of Acquittal etc. Motion denied - Motion by Mr. Rosenkranz, atty for deft BEHAR for Judgment of Acquittal and to dismiss all counts etc. Motion denied- motion by Mr. Klein atty for deft CARDONA for a Judgment of Acquittal and for the dismissal of all counts - Motion denied - Motion by Mr. Lashley atty for deft JANKOWITZ for a Judgment of Acquittal and to dismiss all counts - Motion denied - Trial contd to Mar. 27,1974.
3-27-74	Before TRAVIA J - case called - deft Harry Bernstein reported ill with heart attack - deft Rose Bernstein not present - all other defts present with attys - trial resumed - trial contd to Mar. 28, 1974.
3-28-74	Before TRAVIA J - case called - deft Harry Bernstein reported in the hospital - Rose Bernstein not present - all other defts & all counsels present - trial adjd to Apr. 1, 1974.
4-1-74	Before TRAVIA J - case called - deft HARRY BERNSTEIN reported ill - deft Rose Bernstein not present - all other defts & counsels present - trial resumed - trial contd to 4-3-74.
4-2-74	Before TRAVIA,J.- Case called- Defts not present- Jury not present- All counsel present- Trial contd to 4-3-74
4-3-74	Before TRAVIA,J.- Case called- Defts not present- All counsel present- Trial resumed- Jury excused at 10:25 to return on 4-9-74 at 10:00 A.M. Trial adjd to 4-4-74
4-4-74	By TRAVIA J - Order appointing an Expert Witness filed.(for examination of Harry Bernstein by Dr. Simon Back, 1111 Park Avenue, NYC., a qualified cardiologist, etc.
4-4-74	Before TRAVIA J - Case called - counsels Mr. Brodsky, Mr. Soviero and Mr. Martino present - all other counsels & defts not present who were excused by the Court. Mr. McAvoy, counsel for EasternService Corp. reported in hospital - motion by Mr. Brodsky for severance of Harry Bernstein and on behalf of Mr. McAvoy for Eastern Service Corp. etc. Motion denied - Motion by Mr. Soviero for severance of Rose Bernstein and for dismissal of the case etc. Motion denied - trial adjd to 4-5-74
4-5-74	Voucher for compensation of counsel Richard Rosenkranz filed (Behar)
4-5-74	Voucher for compensation of counsel Klein & Klein filed (Cardona)
4-9-74	Before TRAVIA J - case called - oral motion by Mr.Obermaier atty for deft DUN & BRADSTREET for severance of the trial and joined by Mr. Prescott & Mr. Jankowitz, etc. Motion denied.

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C 29

DATE	PROCEEDINGS
1-74	Before TRAVIA J - case called - Mr. Brodsky & Asst. U.S. Atty Accetta present - 1 letter dated 4-10-74 from Dr. Poindexter marked courts ex.#23. Mr. Brodsky's application for reconsidering of stay is denied - Mr. Brodsky's motion for a hearing - motion denied - trial to be continued on April 15, 1974 at 10:00 am.
-15-74	Voucher for compensation of counsel filed(Melvin Cardona) forwarded to Court of Appeals for approval (amt $3530) Klein & KleinEsq
-15-74	Before TRAVIA J - case called - defts & counsels present -trial resumed - application by Mr. Brodsky to have Mr. Bernstein stay at home for a period of 2 weeks so he can be observed - motion denied - motion by Mr. Brodsky to have Mr. Bernstein waive his appearance in court for the balance of trial - motion denied - trial contd to 4-16-74.
-16-74	Before TRAVIA J - case called - defts & counsels present - trial resumed - Mr. Brodskys motion to have Mr. Bernstein excused for the balance of trial etc. Motion denied - trial contd to 4-17-74.
-17-74	Before TRAVIA J - case called - defts & counsels present -Trial resumed - Application by Mr. Brodsky and Mr. McEvoy to have Mr. Bernstein excused for the day - application granted - Trial continued to April 18, 1974 at 10:00 am.
-18-74	Before TRAVIA J - case called - defts & counsels present -trial resumed - deft Harry Bernstein rests -application by Mr. Brodsky and Mr. McEvoy to have Mr. Harry Bernstein excused from further appearances in court etc and to be recalled by order of Court - application granted - trial continued to 4-22-74.
-22-74	Before TRAVIA J - case called - all defts present except Mr. Bernstein who was excused by the court and counsels present - trial resumed - witness Roger Fred excused and to be recalled later - trial contd to 4-23-74 - deft Rose Bernstein rests.
23-74	Before TRAVIA J - case called - all defts & counsels present - xxxxxxx except Mr. Bernstein who was excused by the court - Trial contd to April 24, 1974.
24-74	Before TRAVIA J - case called - all defts & counsels present except Mr. Bernstein who was excused by the court - trial resumed - trial contd to April 25, 1974.
-25-74	Before TRAVIA,J.- Case called- Defts and counsels present except Mr. Harry Bernstein who was excused by the court-Trial resumed- Trial contd

DATE	PROCEEDINGS
4-29-74	Beneficial Certificate of Eastern Service Corp. filed.
4-29-74	Dun & Bradstreet's Memorandum filed.
4-29-74	Before TRAVIA J - Case called - all defts & counsels present except Harry Bernstein who was excused by Court - Trial resumed - trial continued to April 30, 1974.
4-30-74	Before TRAVIA,J.- Case called- All defts and counsels present except Mr. Harry Bernstein who was excused by the Court- Trial resumed- Trial contd to 5-1-74 at 10:00 A.M.
5-1-74	Before TRAVIA,J.- Case called- All defts and counsels present except Mr. Harry Bernstein who was excused by the court- Trial resumed- Trial contd to 5-2-74 at 10:00 A.M.
5-1-74	Dun and Bradstreet's Memorandum of law in support of the admissibility of co-conspirator acts filed
5-2-74	Voucher for compensation of counsel filed (deft Cardona) atty Klein & Kl
5-2-74	Voucher for compensation of counsel filed(deft Jankowitz)Allan Lashley, E
5-2-74	Voucher for compensation of counsel filed(defr Behar)R.Rosenkranz,Esq.
5-2-74	Before TRAVIA,J.- Case called- All defts and counsels present except Mr. Harry Bernstein who was excused by the court- Trial resumed- Deft Dun and Bradstreet rests- Deft Mr. Prescott rests- Trial contd to 5-6-74 at 10:
5-6-74	Before TRAVIA,J.- Case called- All defts and counsels present- Except Harry Bernstein who was excused by the court- Trial resumed- Trial contd to 5-7-74 at 10:00 AM.
5-7-74	Dun & Bradstreet's supplemental Requests to Charge filed.
5-7-74	Before TRAVIA J -case called - all defts & counsels present except Harry Bernstein who was excused by the court - trial resumed - Motio by Mr. Martino for withdrawal of a Juror and for Mistrial - Motion denied - Trial continued to May 8, 1974 at 10:00 am.
5-8-74	Before TRAVIA J - case called - all defts present with counsel except deft Bernstein who was excused by the court - trial resumed - motion by Mr. Martino to strike testimony from the record starting at the las and ending on the last line on page #19033. Govts Ex. #250 - motion granted - Govts Ex. #250 received in evidence - motion by Mr. Martino for the withdrawal of a Juror and for Mistrial etc - motion joined by Mr. Spviero & Mr. McEvoy & Mr.Bredsky, Mr. Rosenkranz & Mr. Lashley - motion denied - trial contd to May 9,19
5-9-74	Before TRAVIA J - case called - all defts & counsels present except Harry Bernstein, etc. Trial resumed - trial contd to May 13, 1974.

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DATE	PROCEEDINGS
0-74	Dun & Bradstreet's Memorandum on the Order of Summations filed.
-74	Before TRAVIA J - case called - all defts & counsels present except Harry Bernstein who was excused, etc. Trial resumed - trial continued to May 14, 1974.
74	Before TRAVIA,J.- Case called- All defts and counsels present except Mr. Harry Bernstein who was excused by the court- Trial resumed Deft Florence Behar rests-trial contd to 5-15-74 at 10:00 A.M.
-74	Before TRAVIA J - case called - all defts & counsels present - except Harry Bernstein who was excused etc. trial resumed - Deft CARLONA rests - deft [illegible] rests - deft EASTERN SERVICE rests - Govt rests - all defts rest - Mr. Brodsky's motion for Judgment of Acquittal pursuant to Rule 29(a) as to deft HARRY BERNSTEIN and to dismiss counts 1-13-20-25-29-33-35 & 38 - all motions denied - Mr. Soviero's motion for Judgment of acquittal pursuant to Rule 29(a) as to deft ROSE BERNSTEIN & to dismiss counts 1, 29, 33, 35, 36, 37, [illegible] 42 - all motions denied - Mr. McEvoy's motion for Judgment of Acquittal pursuant to Rule 29(a) as to deft EASTERN SERVICE - motion denied - Mr. Obermaier's motion for Judgment of Acquittal pursuant to Rule 29(a) as to deft DUN & BRADSTREET and to dismiss indictment and for severance -all motions denied - Mr. Wall's motion for Judgment of Acquittal pursuant to Rule 29(a) as to deft PRESCOTT - motion denied - Mr. Martines motion for Judgment of acquittal pursuant to Rule 29(a) as to deft HERBERT CROHN - motion denied. Mr. Rosenkranz motion for Judgment of Acquittal pursuant to Rule 29(a) as to deft FLORENCE BEHAR & joins all motions made by other attys - etc. all motions denied - Mr. Kleins motion for Judgment of Acquittal pursuant to Rule 29(a) as to deft MELVIN CARLONA -motion denied - Mr. Lashleys motion for Judgment of Acquittal under Rule 29(a) as to deft JANOWITZ -Motion denied - trial contd to May 16, 1974.
-16-74	Before TRAVIA,J.- Case called- All defts and counsels present except Mr. Harry Bernstein who was excused by the court-Trial resumed without Jury- Requests to charge begun-Requests to charge contd to 5-17-74 at 2:00 P.M.
-17-74	Before TRAVIA J - case called - defts & Jury not present - trial resumed - request to charge continued and concluded - trial contd to May 20, 1974.

DATE	PROCEEDINGS
5-20-74	Before TRAVIA,J.- Case called- All defts and counsels present- Trial res
	Govt moves to dismiss counts 2, 18 and 20 as to deft HARRY BERNSTEIN, mo
	granted- Trial contd to 5-21-74 at 10:00 A.M.
5-21-74	~~Sentencing~~ Voucher for compensation of counsel filed (Behar) atty
	Richard Rosenkranz.
5-21-74	Before TRAVIA J - case called - all defts & counsels present - trial
	resumed - trial continued to May 22, 1974.
5-22-74	Before TRAVIA,J.- Case called- All defts and counsels present- Trial res
	Summations contd by Mr. Soviero- Mr. McEvoy sums up for deft Eastern Se
	Corp.- Trial contd to 5-23-74 at 10:00 A.M.
5-23-74	Before TRAVIA,J.- Case called- All defts and counsels present- Trial resume
	Summations contd by Mr. McEvoy- Mr. Obermaier sums up for deft Dun and
	Bradstreet- Trial contd to 5-28-74 at 10:00 A.M.
5-28-74	Before TRAVIA J - case called - all defts & counsels present - Trial
	resumed - Summations contd by Mr. Obermaier - trial contd to May 29, 19
5-29-74	Before TRAVIA J - case called - all defts & counsels present except
	Harry Bernstein, etc. Trial resumed - summations contd by Mr. Obermaier
	Mr. Martine sums up for deft CROWN - trial contd to May 30 1974.
5-30-74	Voucher for Expert Services filed (Michael Piccozzi)
5-30-74	Before TRAVIA,J.- Case called- All defts and counsels present- Except M
	Harry Bernstein who was excused by the court- Mr. Rosenkranz sums up fo
	deft Behar- Mr. Wall sums up for deft Prosperi- Mr. Klein sums up for
	deft Cardona- Trial contd to 6-3-74 at 10:00 A.M.
6-3-74	Before TRAVIA,J.- Case called- All defts and counsels present. Trial re
	Juror #8 Mr. David Miller removed- Mr. Ford recused- Trial contd t
	6-4-74 at 10:00 A.M.
6-3-74	Voucher for compensation of counsel Allen Lashley forwarded to Chief Ju
	Court of appeals (JANKOWITZ)
6-4-74	Before TRAVIA J - case called - all defts & counsels present - trial
	resumed - summations continued by Mr. Michael Klein - Allen Lashley
	sums up for deft Jankowitz - George Bashian sums up for Govt. Trial
	continued to June 5 1974.
6-5-74	Before TRAVIA,J.- Case called- All defts and counsels present- Trial re
	Mr. Harry Bernstein excused for the day by the court- Motion by Mr. Kle
	to dismiss count 9- motion cont'd - Summation contd by Mr. Bashian- Tria
	contd to 6-6-74 at 10:00 A.M.
6-6-74	Voucher for compensation filed (att'y for atty's counsel filed (deft
	Florence Behar, Richard Rosenkranz, Esq)

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DATE	PROCEEDINGS
-6-74	Before TRAVIA J - case called - all defts & counsels present - Trial resumed - summations continued by Mr. Bashian - Mr. Harry Bernstein excused by the Court until Monday - Mr. Brodskys motion for a mistrial and joined by other attorneys - motion denied - Trial continued to June 10, 1974.
6-10-74	Before TRAVIA J - case called - all defts present with counsels - trial resumed - Summations contd by George Bashian ; motion by Mr. Obermaier for a severance etc. Motion denied - motion by Mr. Rosenkrantz for withdrawal of a Juror and for a Mistrial - Motion denied - Motion by Mr. Klein for withdrawal of a Juror and for a mistrial and joined by other counsels - motion denied - trial contd to June 11, 1974.
11-74	Before TRAVIA J - case called - all defts & counsels present - trial resumed - summations continued by Mr. Bashian - alternate juror #2 Mr. Robert L. Meir excused by court due to illness - all alternate jurors move up 1 seat. Trial continued to 6-12-74.
6-12-74	Before TRAVIA J - case called - all defts & counsels present - trial resumed - summations contd by Mr. Bashian - Mr. Soviero moves for a withdrawal of a Juror and for a Mistrial etc. Motion is denied - Alt.Juror #2 Peter Gagliano discharged by the Court for personal reasons - other alternate jurors move up one seat. Trial contd to June 13, 1974 .
-13-74	Before TRAVIA J - case called - All defts & counsels present - trial resumed - Court charges Jury at 10:50 am - Order of Sustenance signed for Lunch - 2 U.S. Marshals sworn - Trial contd to June 14, 1974.
-13-74	By TRAVIA J - Order of sustenance filed (Lunch)
6-14-74	Voucher for compensation of appointed counsel filed (Jankowitz) Atty.Allen Lashley,Esq
6x14x74	xxVouchxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
-14-74	Before TRAVIA J - case called - all defts & counsels present - Trial resumed - Court resumes charge to Jury - Order of sustenance signed - Trial contd to June 17, 1974.
14-74	By TRAVIA J - Order of sustenance filed - (Lunch-15 Jurors and 2 Marshals)
-17-74	Before TRAVIA J - case called - all defts & counsels present - Trial resumed - court resumes charge to jury - Order of Sustenance signed - Alternate jurors discharged - jury retires

DATE	PROCEEDINGS
	for deliberations at 3:00 PM. Trial continued to June 18, 1974.
6-17-74	By TRAVIA J-- - Order of sustenance signed -(Lunch 15 jurors & 2 Marshals)
6-18-74	Before TRAVIA J - case called - All defts & counsels present-- Trial resumed - Jury continued deliberations at 10:00 am. Application by Mr. Obermaier to have Court ask the Jury if they heard a Radio broadcast on this case. Mr. Obermaier's motion for a mistrial etc - Motion denied - Mr. Michael Klein motion for withdrawal of a juror and for a mistrial, etc. Motion denied. Order of sustenance signed (Lunch 12 jurors and 2 Marshals) Jury has verdict on deft Joseph Jankowitz and finds the deft not guilty on counts 1, 30 & 34 - deft Jankowitz discharged - Trial continued to June 19, 1974 at 10:00 am.
6-18-74	By TRAVIA J - Order of sustenance filed.
6-19-74	By TRAVIA J - Judgment of Acquittal filed (JANKOWITZ)
6-19-74	Before TRAVIA,J.- Case called- All defts and counsel present- Trial resumed- Mr Obermaier's motion for a mistrial etc.- motion denied-order of sustenance signed- Jury deliberations contd to 6-20-74 at 10:00 A.M.
6-19-74	By TRAVIA,J.- Order of sustenance filed (LUNCH)
6-20-74	Before TRAVIA J - case called - all defts & counsels present - Trial resumed - Mr Obermaier's motion for a Mistrial etc. Motion denied - Reading of Testimony contd - Jury coutinues deliberations at10:25 A.M. Order of sustenance signed(Lunch, 12 Jurors, 2 Marshals) Trial continued to June 21, 1974.
6-20-74	By TRAVIA J - Order of Sustenance filed (Lunch - 12 jurors, 2 Marshals)
6-21-74	Before TRAVIA J. - case called - all defts & counsels present -Trial resumed - Jury came into court at 10:20 am for reading of testimony. Trial continued to June 24, 1974 at 9:30 a.m.
6-21-74	By TRAVIA J - Order of sustenance filed -
6-24-74	Before TRAVIA,J.- Case called- Defts and counsel present- Trial resumed Order of sustenance signed(Lunch)- Trial contd to 6-25-74 at 1:00 P.M.
6-24-74	By TRAVIA,J.- Order of sustenance filed
6-25-74	Before TRAVIA J - case called - all defts & counsel present - Trial resumed - Jury came into court at 3:45 P.M and renders the following verdicts. Deft FLORENCE BEHAR found guilty on counts 1,2,4,5,7,9,10,12 14, 16, 17, 18, 20, 21, 23, 25 27, 28, 31, 35, 37, 39 and not guilty on count 33 in the redacted indictment, they being counts 1, 36, 28, 1, 40, 59, 10, 2, 4, 89, 55, 46, 6, 26, 19, 20, 14, 24, 32, 30, 101, 72 and not guilty on count 34 respectively in the Superseding Indictment.

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DATE	PROCEEDINGS
	Deft HARRY BERNSTEIN found guilty on counts 1, 25, 35, 38, 39 41, 42, 44, 46, 48, 50, 51, 53 55, 57, 59, 63 and 65 and not guilty on counts 29, 33, & 61 in the redacted indictment, they being counts 1, 20, 60, 72, 115, 118, 121, 126, 129, 134, 146, 153,156, 169, 172, 178, 200, 207 and not guilty on counts 97, 34 and 196 respectively in the Superseding Indictment. Deft. ROSE BERNSTEIN found guilty on counts 1, 35, 36, 37, 38 and not guilty on counts 29, 33 and 62 in the redacted indictment, they being counts 1, 60, 107,101, 72 and not guilty on counts 97, 34 and 198 respectively in the Superseding Indictment. Deft MELVIN CARDONA found guilty on counts 1, 2, 4, 5, 7, 10, 12, 14, 16, 17, 18, 20, 21, 23, 25, 27, 28, 31 in the redacted indictment. They being counts 1, 36,28, 12, 40, 10, 2, 4, 89, 55, 46, 6, 26, 18, 20, 14, 24 and 32 respectively in the superseding indictment. Deft EASTERN SERVICE CORPORATION found guilty on counts 1, 2, 4, 5, 7, 9, 10, 12, 14, 16, 17, 18, 20, 21, 23, 25, 27, 28, 31, 35, 36, 37, 38, 39, 41, 32, 44, 46, 48, 50, 51, 53, 55, 57, 59, 63, 65 and not guilty on counts 29, 33 and 61 in the redacted indictment, they being counts 1, 36, 28, 12, 40, 59, 10, 2, 4, 89, 55, 46, 6, 26, 18, 20, 14, 24, 32, 60, 107, 101, 72, 115, 118 121, 126, 129, 134, 146, 153, 156, 169, 172, 178, 200, 207 and not guilty on counts 97, 34, and 196 respectively in the superseding indictment. Jury polled - defts motions to set aside verdicts, etc. Motion denied - Trial continued to June 26, 1974 at 10:00 am.
-26-74	Before TRAVIA J - case called - all defts & counsels present - Trial resumed - Mr. Obermaiers motion for a severance and joined by Mr. Wall & Mr.Martine etc. Motion denied-Mr. Obermaiers motion for Mistrial - Motion denied - Jury resumed seliberations at 10:55 A.M. Trial contd to June 27, 1974 at 10:00 am.
-26-74	By TRAVIA J - Order of Sustenance filed -Lunch 14 persons.
27-74	Before TRAVIA,J.- Case called- Defts and counsels present- Trial resumed Order of sustenance signed- Trial contd to 6-28-74 at 10:00 A.M.
27-74	By TRAVIA,J.- Order of sustenance filed
/74	Before TRAVIA,J.- Case called- Defts and counsels present(Deft L. Martine, Otto G. Obermater and P. Wall)- Trial resumed-Order of Sustenance signed- Trial cont'd to July 1, 1974
4	By TRAVIA,J.- Order of Sustenance dated 6/28/74 filed.
	Voucher for expert services filed

DATE	PROCEEDINGS
7-1-74	BEFORE TRAVIA J - Case called - Defts & counsels present - Trial Resumed
	Mr Obermaiers motion for a severance and for a mis-trial etc. - Motion
	denied. Order of sustance signed. Lunch 12 jurors 2 Marshals.
7- 1-74	Trial continued to July 2, 1974 at 9:30 A.M.
7-2-74	BEFORE TRAVIA J - Case called defts H. Cronin, Dun & Bradstreet &
	Arthur Prescott present - Trial resumed - Mr Martine's motion for the
	withdrawal of a Juror & for mistrial etc. - Motion denied. Jury came i
	Court at 12:35 P.M. and announced that they are hopelessly deadlock on
	deft. HERBERT CRONIN. - Motion by Mr Martine for a mistrial - Motion G
7-2-74	By TRAVIA J- Order od sustenance signed (Lunch 12 Jurors 2 Marshals.
7-2-74	Trial continued to July 3, 1974 at 9:30 A.M.
7-3-74	Before TRAVIA,J.- Case called-Defts and counsels present- Trial resumed
	Jury resumes deliberations-Trial contd to 7-5-74 at 9:30 A.M.
7-3-74	By TRAVIA,J.- Orde of sustenance filed
7-5-74	BEFORE TRAVIA J -Case caled - Dfets. Arthur Prescott & Dun & Bradstree
√	Inc. present with counsels. - Jury came into court at 5:15 P.M. and
	announced that they cannot agree upon a verdict as to defts Prescott &
	Dun & Bradstreet. Motion by Mr Obermaier & Mr Nell for a mistrial etc.
	Motion Granted - Jury Discharged - Trial Concluded.
7-5-74	By Travia J - Order of sustenance signed (Lunch 12 Jurors 2 Marshals.) Fi
7-5-74	Redacted Indictment and schedule correlation ordered sealed by Court.
	Deft. Prescott's Requests to charge filed.
	Deft. Cronin's Requests to charge filed
	Deft Cardona's Requests to charge filed.
	Deft. Jankowitz's Requests to charge filed.
	Joint requests to cahrge of deft. Harry & Rose Bernstein & Eastern Servi
	Corporation filed.
	Gov'ts Mono of law - Legal issues in its Prima Facie Case filed.
	Gov'ts. Memo of Law filed.
	Gov'ts Memo of Law filed.
	Steno's Transcripts dated Oct 9, 10, 11, 15, 16, 17, 18, 23, 24, 25, 1973 fil
	Steno's Transcripts dated Oct 29, 30, 31, Nov. 1, 5, 7, 8, 12, 13, 14, 1
	19, 20, 21, 26, 27, 28, 29, 1973 Filed.
	Steno's Transcripts dated. Dec. 3, 4, 5, 6, 10, 11, 12, 13, 17, 18, 19, 20
	1973 filed.
	Steno's Transcripts dated Jan. 2, 3, 7, 8, 9, 10, 14, 15, 16, 17, 21, 22
	23, 24, 28, 29, 30, 31, 1974 filed.
	Sten'os Transcriptsdated Feb. 4, 5, 6, 7, 13, 14, 19, 20, 21, 25, 26, 27

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DATE	PROCEEDINGS
	28, 1974 filed.
	Steno's Transcript dated Mar. 4, 5, 6, 7, 11, 12, 13, 14, 18, 19, 20, 21, 25, 26, 27, 28, 1974 filed.
	Steno's Transcripts dated Apr. 1, 2, 3, 4, 9, 11, 15, 16, 17, 18, 22, 23, 24, 29, 29, 30, 1974 filed.
	Steno's transcripts dated May 1, 6, 7, 8, 9, 13, 14, 15, 16, 17, 20, 21, 22, 23, 28, 29, 30, 1974 filed.
	Steno's transcripts dated Jun. 3, 4, 5, 6, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, 1974 filed.
m	Steno's transcript dated July 1, 1974 filed.
	Portions of transcripts of Oct 15, 1973, Oct. 17, 1973, Oct 18, 1973 Oct. 23, 1973, June 19, 1974, June 25, 1974 and June 26, 1974 Ordered sealed by the Court.
7-25-74	Voucher for compensation of counsel mailed to C of A for approval (Richard Rosenkranz (atty.)
7-25-74	Notice of motion & affdvt for an order vacating the verdict of deft CARDONA filed forwarded to C of A
29-74	Voucher for compensation of counsel filed (CARDONA) 20
-13-74	Notice of Motion filed with Memorandum of Law (ret. 9-6-74) for an order vacating the verdict of June 25, 1974 and ordering a new trial for deft Melvin Cardona, etc.
8-14-74	Judgment and Copy of Opinion filed re deft Harry Bernstein petition for writ of mandamus directing Judge Travia to grant defts motion for a severance or, in the alternative, a continuance of grounds of ill health, etc. petition is denied. (JN)
8-19-74	2 vouchers approved by the Court of Appeals and forwarded for payment(amts over $1,000-counsel Richard Rosenkranz for deft Behar)
8-26-74	Voucher for compensation of counsel filed (deft Jankowitz-)voucher for counsel Allan Lashley .
-13-74	Before TRAVIA,J. - Case called- Sentence adjd to 10-4-74 on consent ROSE and HARRY BERNSTEIN, EASTERN SERVICE CORP, CARDONA and BEHAR)
9-16-74	Court Exhibits 1 to 70 Incl. sealed and placed in vault.
9-19-74	Before Travia J - case called - sentence as to deft Kapraki adjd to Sept. 24, 1974 at 10:00 am. Sentence as to deft Rose Cohen adjd to 9-24-74.
-19-74	Befoce Travia J - case called - deft Bell & counsel M.O'Rourke present.On motion of AUSA Accetta the Indictment is dismissed.
9-19-74	By Travia J - Order of dismissal filed (RICHARD BELL)

DATE	PROCEEDINGS
9-20-74	Stenographers transcript filed dated Jan. 4, 1974 (Joseph Mauro)
9-20-74	Before TRAVIA,J. Case called- Motion for an order vacating verdict adjd to 9-27-74 (MELVIN CARDONA)
9-20-74	Affidavit in opposition to above motion filed
9-20-74	Before Travia J - case called - deft Goodwin & counsel Kenneth Rohl present - Imposition of sentence is suspended and the deft is placed on probation on count 1 for a period of 3 years. Deft to pay a fine of $5,000 and to stand committed. Stay for payment of fine of 60 days is granted. All outstanding counts are dismissed.
9-20-74	Judgment and Order of Probation filed - certified copies to Probation (Edward Goodin)
9-24-74	Before TRAVIA,J.- Case called- Adjd to 9-27-74 at 10:00 A.M. for senter (ORTRUD KAPRAKI)
9-24-74	Before Travia J - case called - deft ROSE COHEN & counsel Wm. Erlbaum present. Imposition of sentence is suspended on count 1 and the deft is placed on probation for 2 years and to pay a fine of $2500 nto stand committed. Stay of one year is granted for payment of fine. On motio of AUSA Accetta all remaining counts are dismissed.
9-24-74	Judgment and Order of Probation filed - certified copies to Probation.
9-27-74	Reply Affidavit of Melvin Cardona filed
9-27-74	Before Travia J - case called - motion for vacating verdict as to deft Melvin Cardona - motion argued - motion denied.
9-27-74	Before Travia J - case called -deft Ortrud Kapraki & counsel Robert J. LAZARUS present - deft sentenced to imprisonment for 5 years. Execution of sentence is suspended on count 1 and the deft is placed on probation for 5 years and to pay a fine of $5,000 to stand committed. Deft is granted one year for payment of fine. Special conditions are that she pay fine as ordered, not to be employed in the Real Estate business that would subject her to circumstances similar to those which brought about this indictment against her. On motion of AUSA Accetta all outstanding counts are dismissed.
9-27-74	Judgment & Order of Probation filed - certified copies to Probation (ORTRUD KAPRAKI)
10-4-74	Before TRAVIA J - case called - defts HARRY BERNSTEIN, ROSE BERNSTEIN, FLORENCE BEHAR,MELVIN CARDONA & EASTERN SERVICE through its president, Harry Bernstein present with counsels - Deft Cohen, sentenced to pay a fine of $10,000 on count 1 and to pay fine of $5,000 consecutive fine on each of counts 2, 4, 5, 7, 9,10, 12, 14, 16, 17, 18, 20, 21, 23, 25,

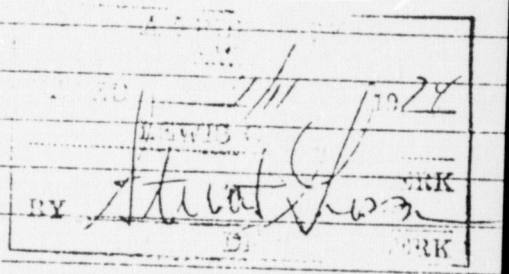
DATE | PROCEEDINGS

27, 28 and 31 in the amount of $90,000 they being counts 36, 23, 12, 40, 59, 10, 2, 4, 89 55, 46, 6, 26, 18, 20, 14, 24 & 32 in the Superseding Indictment, and to pay a fine $20,000 consecutive fine on each of counts 35, 36, 37, 38, 39, 41, 42, 44 , 46, 48, 50, 51, 53, 55, 57, 59, 63 and 65 in the amount of $360,000 they being counts 60, 107, 101, 72, 115, 118, 121, 126, 129, 134, 146, 153, 156, 169, 172, 178, 200 and 207 making a total fine of $460,000.00. Deft. HARRY BERNSTEIN & counsel A.Brodsky present - deft sentenced to imprisonment for a period of 5 years on count 1 plus a fine of $10,000 and 2 years on count 25 of redated indictment which is count 20 of the Superseding Indictment to run concurrent with sentence in count 1 and to pay a consecutive fine of $5,000. 5 years on each of counts 35, 38, 39, 41,42, 44, 46, 48, 50, 51, 53, 55, 57, 59, 63 and 65 of Redacted Indictment to run concurrent with sentence imposed in count 1 and to pay a consecutive fine of $10,000 on each count making a total fine of $175,000, they being counts 60, 72, 115, 118, 121, 126, 134, 146, 153, 156, 169, 172, 178, 200 and 207 of the Superseding Indictment. Stay execution of sentence pending appeal is granted - bail continued. Deft FLORENCE BEHAR & counsel Richard Rosenkranz present - Deft sentenced to imprisonment for a period of 2 years on count 1 and 2 years on each of counts 2,4, 5,7, 9, 10, 12, 14, 16, 17, 18, 20, 21, 23, 25, 27, 28 and 31 of the Redacted Indictment to run concurrent with sentence imposed in count 1 and to pay a fine of $1,000 in the amount of $18,000 they being counts 36, 28, 12, 40, 59, 10, 2, 4, 89, 55, 46, 6, 26, 18, 20, 14, 24 and 32 in the Superseding Indictment and 2 years on each of counts 35, 37 and 38 of the Redacted Indictment to run concurrent with sentence imposed in count 1 and to pay consecutive fine of $1,000 on each count, they being counts 60, 101 and 72 making a total fine of $21,000. Stay of execution of sentence pending appeal. Deft advised of her right to appeal. Clerk is directed to file a Notice of Appeal forthwith. Bail continued. Deft MELVIN CARDONA & counsel Irving Klein present - deft sentenced to imprisonment for a period of 2 years on count 1 and 2 years on each of counts 2 , 4, 5, 7, 10, 12, 14, 16, 17, 18, 20, 21, 23, 25, 27, 28 and 31 of the Redacted Indictment to run concurrent with sentence imposed in count 1 and to pay a fine of $1,000 on each count making

DATE	PROCEEDINGS
	89, 55, 46, 6, 26, 18, 20, 14, 24 and 32 in the Superseding Indictment. Stay execution of sentence pending appeal is granted. Court advised the deft of his right to appeal. Clerk is directed to file notice of appeal forthwith. Bail continued. Deft ROSE BERNSTEIN & counsel Joseph Soviero present. Deft sentenced to imprisonment for 4 years on count 1 plus a fine of $10,000; 4 years on counts 35, 36, 37 and 38 of Redacted Indictment to run concurrent with sentence imposed in count 1 and to pay a consecutive fine of $10,000 they being counts 60, 197, 101 and 72 of the Superseding Indictment making a total fine of $50,000. Stay execution of sentence pending appeal. Court advised deft of her right to appeal. Bail continued.
10-4-74	Judgment & Commitment filed for defts. ROSE BERNSTEIN, HARRY BERNSTEIN MELVIN CARDONA, EASTERN SERVICE CORP. & FLORENCE BEHAR. Certified copies to Marshal for defts.
10-4-74	Notice of Appeal filed (CARDONA & BEHAR)
10-4-74	Docket entries and duplicate of Notice of Appeal mailed to the Court of Appeals (CARDONA & BEHAR)
10-8-74	Notice of Appeal filed (Harry Bernstein)
10-8-74	Notice of Appeal filed (Eastern Service Corporation)
10-8-74	Notice of Appeal filed (Rose Bernstein)
10-8-74	Duplicate of Notices of Appeal mailed to the C of A as to defts Rose and Harry Bernstein and Eastern Service Corporation.
10/22/74	Satisfaction of Fine Judgment filed (ROSE COHEN)
10/25/74	Stenographers Transcripts dated 8/2/74 and copy of 10/3/73 filed
10-29-74	By WEINSTEIN J - Order filed setting case for pre trial on 12-2-74.
1/74	Notice of motion for reduction of sentence filed (BEHAR)
11-4-74	Above motion inappropriate as per J. Weinstein's secretarythis date.
1/6/74	Notice of motion for judgment of acquittal filed ret. 11/8/74 (DUN and BRADSTREET)- Memorandum of law in support of motion filed
1/6/74	Notice of motion forjudgment of acquittal filed ret.11/8/74 (PRESCOTT)
11/7/74	Affidavit in opposition to deft Dun and Bradstreet's motion filed
11/7/74	Stenographers Transcript dated 7/2/74, 7/3/74, and 3 dated 10/4/74 file
11/7/74	Stenographers Transcript dated 10/1/73, 10/2/73, 10/3/73 and 10/4/73 fi
11-8-74	Gov'ts. Statement in Support of Dismissal filed.
1/8/74	Before TRAVIA,J.- Case called- Motion for judgment of acquittal argued- motion granted- Submit order on notice Oral motion by Mr. DePetris to indictment denied(ARTHUR PRESCOTT and DUN AND BRADSTREET)
11-11-74	By WEINSTEIN J - Order filed appointing counsel (CRONIN)

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DATE	PROCEEDINGS
11/11/74	Before WEINSTEIN,J.- Case called- Deft CRONIN and counsel present- Mr. Martin'S application to be relieved as counsel for deft CRONIN is granted- Mr. Klatz is assigned as counsel for deft- Order to be submitted
11/11/74	Record on appeal certified and mailed to the court of appeals (ROSE BERNSTEIN, HARRY BERNSTEIN, EASTERN SERVICES CORPORATION)



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DATE	PROCEEDINGS
11/11/74	Before WEINSTEIN,J.- Case called- Deft CRONIN and counsel present- Mr. Martin'S application to be relieved as counsel for deft CRONIN is granted- Mr. Klatz is assigned as counsel for deft- Order to be submitted
11/11/74	Record on appeal certified and mailed to the court of appeals (ROSE BERNSTEIN, HARRY BERNSTEIN, EASTERN SERVICES CORPORATION)
11/13/74	Letter from John Klotz, esq. to chambers dated 11/12/74 filed re:deft CRONIN and motion to dismiss
11/13/74	By WEINSTEIN,J.- Order that above matter referred to Judge Travia (order on bottom of above letter)
11-14-74	Voucher for compensation of counsel filed (approved by C of A and forwarded for payment-deft MELVIN CARDONA)attyMichael Klein.
11/15/74	Before TRAVIA,J.- Case called- Motion to dismiss adjd to 11/22/74 at 10:00 A.M.(HERBERT CRONIN)
11-19-74	Satisfaction of Fine Judgment filed (EDWARD GOODWIN)
11-21-74	Acknowledgment received from the Court of Appeals filed for receipt of Index to Record on Appeal.
11-22-74	Before TRAVIA J - case called - oral motion to dismiss the Indictment as to deft CRONIN etc. motion argued and motion denied.
1/22/74	Before TRAVIA,J.- Case called- Deft MANUEL CARPIO and counsel present On motion of A.U.S.A. Caden the indictment is ~~xxx~~ dismissed
1/22/74	By TRAVIA,J.- Order of dismissal filed(CARPIO)
1-25-74	Notice of Motion filed and Memorandum of Law in support of motion for defts to post bond and to restrain defts from dissipating assets, etc. (forwarded to Chambers)
11-25-74	By TRAVIA J - Order filed that motions of defts DUN & BRADSTREET Inc. & ARTHUR PRESCOTT for judgment of acquittal on counts, ~~xxx~~ 1, 3, 5, 13, 19, 21, 27, 33, 37, 41 and 47 be granted and it is further ordered that motion of U.S.A ; to dismiss all other counts of said indictment against both defts be granted.
11/25/74	By WEINSTEIN,J.- Order filed that motion to restrain defts from dissipat assets, etc. will be heard on 12/2/74 at 9:30 A.M. (order on bottom of motion papers) (parties notifed as ordered)
12-2-74	2 letters filed received from Chambers from counsel Frank Raichle re adjournment etc.(one dated Nov. 25 and one dated Nov. 29, 1974.) pre trial scheduled for Dec. 2, 1974. (re)

DATE	PROCEEDINGS
12-2-74	Before Weinstein J - case called - defts & counsels present - Govts motion for the defts Harry & Rose Bernstein and Eastern Service to post a bond pending appeal argued and denied - So Ordered - Pre Trial Conference held and concluded - attorney Frank Raichle is substituted for Attorney A. Brodsky for defts Harry & Rose Bernstein and Eastern Services - atty Frank Raichle is admitted for the purpose of this trial - On motion of Asst U.S. Atty R.De Petris the indictment is dismissed as to defts Irving Figowitz and Ralph Gonias withleave to renew if Govt receives no authorization - Motion by deft Monti to dismiss the Indictment - no opposition - motion granted - Waiver for speedy trial as to all of their open indictments by defts Harry and Rose Bernstein, Eastern Services, Herbert Cronin (govt to provide transcript to Mr. Cronin for appeal) and Mr. Harvey read into the record - Govts motion to dismiss as to deft Behar in 73 CR-588 is granted with leave to renew - deft Hollenbeck reported deceased - Indictment dismissed - case adjd without date.
12-2-74	By Weinstein J - Order of dismissal filed as to defts Irving Figowitz, Ralph Gonias, Hollenbeck and Monte.
12-4-74	Stenographers transcript filed dated Nov. 8, 1974 (DUN & BRADSTREET)
12-4-74	Letter filed dated Dec. 2, 1974 from Michael Rosen, Esq., counsel for deft Keller, received from Chambers
12/9/74	Stenographers Transcript dated 9/24/74 filed
12/11/74	By WEINSTEIN,J.- Order of dismissal filed (HAROLD KELLER)
12/16/74	Before WEINSTEIN,J.- Case called- Deft Harvey and counsel present. Panzer is relieved as counsel for Mr. Harvey-Counsel to be assigned for deft Harvey
12-17-74	Stenographers transcript filed dated 9-20-74 (Goodwin)
12-13-74	Stenographers transcript filed dated 9-27-74(Kapraki)
12-18-74	Stenographers transcript filed dated July 25, 1973.
12-18-74	Stenographers transcript filed dated July 27, 1973
12/23/74	Letter to chambers from A.U.S.A. DePetris dated 12/17/74 filed
12/23/74	Letter to chambers dated 12/17/74 from A.U.S.A. DePetris filed re:deft Cronin and reproduction of transcripts
12/23/74	By WEINSTEIN,J.- Order filed that above request approved-(order on bottom above letter
2 24 75	Before WEINSTEIN J - case called - deft CRONIN not present - counsel present - Pre-Trial Conference held & concluded - Defts motion to dismiss the indictment set for Feb. 26, 1975 at 9:30 am - trial set for March 2, 1975 at 10:00 am.

DATE	PROCEEDINGS
2-25-75	Letter filed dated 2-25-75 received from Chambers from John Klotz,Esq. re deft Cronin .
2-26-75	Notice of Motion filed, ret. 2-27-75(deft CRONIN) for dismissal of the Indictment & Memorandum of Points and Authorities filed.
2/27/75	Before WEINSTEIN,J.- Case called- Deft and counsel present- Deft's application to adjourn trial is granted- Deft to submit himself to a Govt medical examination- Evidentiary hearing set for 3/17/75 at 10:00 Case set for trial 3/17/75 at 10:00 A.M.
/28/75	Voucher for expert services filed (CRONIN) (transcription by B'klyn-Progress)
2/28/75	Stenographer's transcript of 2/27/75 filed.

SUPERSEDING INDICTMENT

72 CR. 587

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72 CR 587

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - X

UNITED STATES OF AMERICA

- against -

HARRY BERNSTEIN,
ROSE BERNSTEIN, also known as
Rose Shorenstein,
EASTERN SERVICE CORPORATION,
DUN & BRADSTREET, INC.,
HERBERT CRONIN,
FLORENCE BEHAR,
FRANK FEY,
ARTHUR PRESCOTT,
ORTRUD KAPRAKI,
MELVIN CARDONA,
PATRICIA BUCKLEY,
EDWARD GOODWIN,
JOSEPH JANKOWITZ,
FRANK DREIS,
GREVILLE HARVEY,
ROSE COHEN,
JOSEPH MONTI,
IRVING FIGOWITZ
RALPH GONIAS,
HAROLD KELLER,
MANUEL CARPIO,
DOUGLAS HOLLENBACH and
RICHARD E. BELL,

Defendants.

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SUPERSEDING INDICTMENT

Cr. No.
(T 18, U.S.C. §201(b)(1),
§201(c)(1), §1010, §371 & §2

THE GRAND JURY CHARGES:

COUNT ONE

On or about and between the 30th day of March 1967 and the 29th day of March 1972, within the Eastern District of New York, the defendants HARRY BERNSTEIN, ROSE BERNSTEIN, also known as Rose Shorenstein, EASTERN SERVICE CORPORATION, DUN AND BRADSTREET, INC., HERBERT CRONIN, FLORENCE BEHAR, FRANK FEY, ARTHUR PRESCOTT, ORTRUD KAPRAKI, MELVIN CARDONA, PATRICIA BUCKLEY, EDWARD GOODWIN, JOSEPH JANKOWITZ, FRANK DREIS, GREVILLE HARVEY, ROSE COHEN, JOSEPH MONTI, IRVING FIGOWITZ, RALPH GONIAS, HAROLD KELLER, MANUEL CARPIO, DOUGLAS HOLLENBACH, RICHARD E. BELL and Roy Schiller, who is herein named as a co-conspirator but not a defendant, conspired to commit offenses against the United States, namely, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue insurance for loans and advances of credit, the defendants submitted applications for mortgage insurance containing false, fraudulent, incomplete and

fictitious information in violation of Title 18, United States Code, §1010, and conspired to bribe officials of the Federal Housing Administration of the Department of Housing and Urban Development in order to induce them to unlawfully and corruptly increase the values of real property within the Eastern District of New York and to corruptly procure the improper assignment, processing, review and approval of applications for mortgage insurance submitted by the defendant EASTERN SERVICE CORPORATION to the Federal Housing Administration of the Department of Housing and Urban Development, in violation of Title 18, United States Code, §201.

It was a part of the conspiracy for the defendants HARRY BERNSTEIN, ROSE BERNSTEIN, also known as Rose Shorenstein and EASTERN SERVICE CORPORATION, and its principals and employees including the defendants FLORENCE BEHAR, FRANK FEY, MELVIN CARDONA and PATRICIA BUCKLEY, as well as the defendant real estate broker ORTRUD KAPRAKI and her employees, attorneys and representatives including RALPH GONIAS, IRVING FIGOWITZ, HAROLD KELLER, MANUEL CARPIO, DOUGLAS HOLLENBACH and RICHARD E. BELL to submit false and fraudulent information to the Federal Housing Administration of the Department of Housing and Urban Development, and to submit such false and fraudulent information to the defendant DUN AND BRADSTREET, INC., and for the defendant DUN AND BRADSTREET, INC., to verify and report such information as true although it was known to the defendant DUN AND BRADSTREET, INC., and its employee the defendant ARTHUR PRESCOTT as well as to other responsible officials and employees of DUN AND BRADSTREET, INC., that such information was in fact false, inaccurate and incomplete.

It was further part of the conspiracy for the defendants HARRY BERNSTEIN, ROSE BERNSTEIN, also known as Rose Shorenstein and EASTERN SERVICE CORPORATION to procure false, inflated and excessive valuations on real properties whose mortgage insurance applications were being processed through Eastern Service Corporation, to procure the expeditious handling of such applications, and to cause officials of the Federal Housing Administration of the Department of Housing and Urban Development to fail to subject

said applications to proper review procedures by bribing and causing to be bribed officials of the Federal Housing Administration of the Department of Housing and Urban Development.

As a further part of the conspiracy, the defendant HERBERT CRONIN, by virtue of his position as chief underwirter at the Hempstead, New York office of the Federal Housing Administration of the Department of Housing and Urban Development corruptly used the discretionary powers entrused to him in his official office in that he wilfully, directly and indirectly increased the value of mortgage insurance commitments on behalf of the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN and EASTERN SERVICE CORPORATION and their customers. (Title 18, United States Code, §371).

In furtherance of and to effect the illegal objects of the conspiracy the defendants committed the following:

OVERT ACTS

1. The Grand Jury repeats and realleges each and every allegation in Counts 2 through 211, as though fully set forth herein.

COUNT TWO

On or about the 20th day of January 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA, RICHARD E. BELL, RALPH GONIAS, DOUGLAS HOLLENBACH, and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 272 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT THREE

On or about the 13th day of January 1969, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT, and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 272 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FOUR

On or about the 26th day of February 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA, HAROLD KELLER, RALPH GONIAS, and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 173

26th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FIVE

On or about the 17th day of February 1969, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT, and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 178 26th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT SIX

On or about the 3rd day of December 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA, and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 267 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT SEVEN

On or about the 8th day of November 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT, and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 267 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT EIGHT

On or about the 3rd day of September 1968, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Joseph Monti who was then and there a fee appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said fee appraiser in connection with a property appraisal at 267 53rd Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT NINE

On or about the 3rd day of September 1968, within the Eastern District of New York, the defendant JOSEPH MONTI, who was then and there a fee appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 267 53rd Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT TEN

On or about the 28th day of January 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA, and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 218 52nd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT ELEVEN

On or about the 30th day of October 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 218 52nd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT TWELVE

On or about the 25th day of November 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 345 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT THIRTEEN

On or about the 15th day of November 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 345 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FOURTEEN

On or about the 27th day of March 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, ORTRUD KAPRAKI, MELVIN CARDONA, FLORENCE BEHAR and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 331 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FIFTEEN

On or about the 10th day of March 1969, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 331 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT SIXTEEN

On or about the 22nd day of January 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 334 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT SEVENTEEN

On or about the 7th day of January 1969, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 334 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT EIGHTEEN

On or about the 13th day of December 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 414 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT NINETEEN

On or about the 27th day of November 1968, within the Eastern District of New York, the defendant DUN & BRANDSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 414 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT TWENTY

On or about the 3rd day of April 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 416 52nd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT TWENTY-ONE

On or about the 17th day of March 1969, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 416 52nd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT TWENTY-TWO

On or about the 3rd day of October 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 201 61st Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT TWENTY-THREE

On or about the 3rd day of October 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 201 61st Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT TWENTY-FOUR

On or about the 17th day of April 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, ORTRUD KAPRAKI, MELVIN CARDONA, FLORENCE BEHAR and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 338A 20th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT TWENTY-FIVE

On or about the 11th day of April 1969, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 338A 20th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT TWENTY-SIX

On or about the 2nd day of January 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also

known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 359 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT TWENTY-SEVEN

On or about the 21st day of November 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 359 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT TWENTY-EIGHT

On or about the 4th day of December 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIAL BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 347 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT TWENTY-NINE

On or about the 12th day of September 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 347 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT THIRTY

On or about the 3rd day of September 1968, within the Eastern District of New York, the defenant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Joseph Monti who was then and there a fee appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said fee appraiser in connection with a property appraisal at 347 57th Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT THIRTY-ONE

On or about the 3rd day of September 1968, within the Eastern District of New York, the defendant JOSEPH MONTI, who was then and there a fee appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 347 57th Street, Brooklyn New York. (Title 18, United States Code, §201(c)(1)).

COUNT THIRTY-TWO

On or about the 4th day of February 1969, within the Eastern District of New York the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 211 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT THIRTY-THREE

On or about the 29th day of October 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 211 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT THIRTY-FOUR

On or about the 30th day of January 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI, aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Joseph Jankowitz who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 211 53rd Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT THIRTY-FIVE

On or about the 30th day of January 1969, within the Eastern District of New York, the defendant JOSEPH JANKOWITZ, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development an agency of the United States, corruptly and directly received from Ortrud Kapraki, approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 211 53rd Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT THIRTY-SIX

On or about the 27th day of November 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 440 41st Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT THIRTY-SEVEN

On or about the 15th day of November 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 440 41st Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT THIRTY-EIGHT

On or about the 4th day of March 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 323 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT THIRTY-NINE

On or about the 20th day of February, 1969, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defenant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 323 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FORTY

On or about the 20th day of November 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 365 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FORTY-ONE

On or about the 14th day of November 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 365 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FORTY-TWO

On or about the 7th day of January 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Joseph Jankowitz who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 316 51st Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT FORTY-THREE

On or about the 7th day of January 1969, within the Eastern District of New York, the defendant JOSEPH JANKOWITZ, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 316 51st Streeet, Brooklyn New York. (Title 18, United States Code, §201(c)(1)).

COUNT FORTY-FOUR

On or about the 28th day of January 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 316 51st Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FORTY-FIVE

On or about the 22nd day of January 1969, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 316 51st Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FORTY-SIX

On or about the 23rd day of December 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 321 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §3).

COUNT FORTY-SEVEN

On or about the 31st day of October 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 321 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FORTY-EIGHT

On or about the 2nd day of September 1968, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Joseph Monti who was then and there a fee appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said fee appraiser in connection with a property appraisal at 336 53rd Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT FORTY-NINE

On or about the 2nd day of September 1968, within the Eastern District of New York, the defendant JOSEPH MONTI, who was then and there a fee appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 336 53rd Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT FIFTY

On or about the 18th day of November 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 336 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FIFTY-ONE

On or about the 25th day of October 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT, and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 336 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FIFTY-TWO

On or about the 25th day of March 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 362 58th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FIFTY-THREE

On or about the 5th day of February 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 337 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FIFTY-FOUR

On or about the 28th day of March 1969, within the Eastern District of New York, the defendant ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 269 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FIFTY-FIVE

On or about the 16th day of June 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA, IRVING FIGOWITZ, MANUEL CARPIO and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application

for mortgage insurance on property located at 256 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FIFTY-SIX

On or about the 28th day of May 1969, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT, and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 256 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT FIFTY-SEVEN

On or about the 17th day of February 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 232 Lexington Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT FIFTY-EIGHT

On or about the 17th day of February 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 232 Lexington Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT FIFTY-NINE

On or about the 28th day of October 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 232 Lexington Avenue, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT SIXTY

On or about the 2nd day of April 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 2503 Albemarle Road, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT SIXTY-ONE

On or about the 2nd day of April 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Adminstration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 2503 Albemarle Road, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT SIXTY-TWO

On or about the 15th day of April 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 2503 Albemarle Road, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT SIXTY-THREE

On or about the 20th day of June 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 349 53rd Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT SIXTY-FOUR

On or about the 20th day of June 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 349 53rd Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT SIXTY-FIVE

On or about the 13th day of August 1969, within the Eastern District of New York, the defendant ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 349 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT SIXTY-SIX

On or about the 22nd day of April 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 338 39th Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT SIXTY-SEVEN

On or about the 22nd day of April 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 338 39th Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT SIXTY-EIGHT

On or about the 2nd day of July 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 338 39th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT SIXTY-NINE

On or about the 6th day of June 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 527 46th Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT SEVENTY

On or about the 6th day of June 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 527 46th Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT SEVENTY-ONE

On or about the 15th day of July 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 527 46th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT SEVENTY-TWO

On or about the 26th day of July 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 172 26th Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT SEVENTY-THREE

On or about the 26th day of July 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 172 26th Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT SEVENTY-FOUR

On or about the 5th day of August 1969, within the Eastern District of New York, the defendant ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 172 26th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT SEVENTY-FIVE

On or about the 17th day of June 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 345 42nd Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT SEVENTY-SIX

On or about the 17th day of June 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 345 42nd Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT SEVENTY-SEVEN

On or about the 25th day of June 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 345 42nd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT SEVENTY-EIGHT

On or about the 25th day of June 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN and EASTERN SERVICE CORPORATION, corruptly and directly paid and the defendant ORTRUD KAPRAKI corruptly and indirectly paid approximately $100, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 323 50th Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT SEVENTY-NINE

On or about the 25th day of June 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Rose Bernstein, also known as Rose Shorenstein, Harry Bernstein, and Eastern Service Corporation and corruptly and indirectly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser

in connection with a property appraisal at 323 50th Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT EIGHTY

On or about the 3rd day of July 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 323 50th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT EIGHTY-ONE

On or about the 11th day of September 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $100 to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 94 15th Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT EIGHTY-TWO

On or about the 11th day of September 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appra ser

in connection with a property appraisal at 94 15th Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT EIGHTY-THREE

On or about the 17th day of September 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 94 15th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT EIGHTY-FOUR

On or about the 3rd day of September 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein and EASTERN SERVICE CORPORATION, corruptly and directly paid and the defendant ORTRUD KAPRAKI corruptly and indirectly paid approximately $50 to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 344 39th Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT EIGHTY-FIVE

On or about the 3rd day of September 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Rose Bernstein, also known as Rose Shorenstein, Harry Bernstein

and Eastern Service Corporation and corruptly and indirectly received from Ortrud Kapraki approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 344 39th Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT EIGHTY-SIX

On or about the 19th day of May 1970, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 344 39th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT EIGHTY-SEVEN

On or about the 17th day of April 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, RICHARD E. BELL and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Adminstration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 139 Coffey Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT EIGHTY-EIGHT

On or about the 26th day of February 1969, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant

EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 139 Coffey Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT EIGHTY-NINE

On or about the 1st day of April 1969, within the Eastern District of New York, the defendants ~~ROSE BERNSTEIN~~, also known as Rose Shorenstein, ~~HARRY BERNSTEIN~~, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA, RALPH GONIAS, RICHARD E. BELL, HAROLD KELLER, ~~HERBERT CRONIN~~ and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 63 Malta Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT NINETY

On or about the 27th day of February 1969, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 63 Malta Street, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT NINETY-ONE

On or about the 14th day of May 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, RALPH GONIAS, HAROLD KELLER, RICHARD E.

BELL, DOUGLAS HOLLENBACH and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 234 52nd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT NINETY-TWO

On or about the 13th day of January 1969, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT, and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 234 52nd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT NINETY-THREE

On or about the 12th day of November 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA, RALPH GONIAS, RICHARD E. BELL, HERBERT CRONIN and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 244 50th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT NINETY-FOUR

On or about the 7th day of November 1968, within the Eastern District of New York, the defendant HERBERT CRONIN, for

the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 244 50th Street, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT NINETY-FIVE

On or about the 10th day of October 1968, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 323 51st Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT NINETY-SIX

On or about the 10th day of October 1968, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 323 51st Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT NINETY-SEVEN

On or about the 31st day of October 1968, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN and EASTERN SERVICE CORPORATION

corruptly and directly paid approximately $100, to one Joseph Jankowitz, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 260 51st Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT NINETY-EIGHT

On or about the 31st day of October 1968, within the Eastern District of New York, the defendant JOSEPH JANKOWITZ, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 260 51st Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT NINETY-NINE

On or about the 24th day of March 1970, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants FLORENCE BEHAR and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $100, to one Frank Dreis who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 429 Pulaski Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED

On or about the 24th day of March 1970, within the Eastern District of New York, the defendant FRANK DREIS, who was then and there an apprais r employed by the Federal Housing Administration

of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 429 Pulaski Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED-ONE

On or about the 14th day of July 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants FLORENCE BEHAR, ROSE BERNSTEIN, also known as Rose Shorenstein and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 570 55th Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED-TWO

On or about the 14th day of July 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 570 55th Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED-THREE

On or about the 5th day of August 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, and EASTERN SERVICE CORPORATION corruptly and directly

paid approximately $100, to one Joseph Jankowitz who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 236 55th Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED-FOUR

On or about the 5th day of August 1969, within the Eastern District of New York, the defendant JOSEPH JANKOWITZ, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 236 55th Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED-FIVE

On or about the 15th day of August 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants FLORENCE BEHAR and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $100, to one Frank Dreis who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 26 4th Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED-SIX

On or about the 15th day of August 1969, within the Eastern District of New York, the defendant FRANK DREIS, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received

from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 26 4th Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED-SEVEN

On or about the 25th day of July 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN also known as Rose Shorenstein and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 371 12th Street, Brooklyn, New York. (Title 18, United States Code, §201 (b)(1) and §2).

COUNT ONE HUNDRED-EIGHT

On or about the 25th day of July 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 371 12th Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED-NINE

On or about the 15th day of January 1970, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants FLORENCE BEHAR and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $100, to one Greville Harvey who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent

to influence official acts of the said appraiser in connection with a property appraisal at 29 Cedar Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED-TEN

On or about the 15th day of January 1970, within the Eastern District of New York, the defendant GREVILLE HARVEY, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 29 Cedar Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED-ELEVEN

In or about September 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPOPATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 459 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED-TWELVE

In or about September 1967, within the Eastern District of New York the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 459 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED-THIRTEEN

In or about October 1967, within the Eastern District of New York, the defendant ROSE BERNSTEIN, also known as Rose Shorenstei and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 233 Fountain Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED-FOURTEEN

In or about October 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Rose Bernstein, also known as Rose Shorenstein, and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 233 Fountain Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED-FIFTEEN

In or about October 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 190 Adelphi Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED-SIXTEEN

In or about October 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 190 Adelphi Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED-SEVENTEEN

In or about October 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 190 Adelphi Street, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED-EIGHTEEN

In or about October 1967, within the Eastern District of New York, the defendant HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 185 Sackman Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED-NINETEEN

In or about October 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an

appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 185 Sackman Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED-TWENTY

In or about October 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 185 Sackman Street, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED TWENTY-ONE

In or about October 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 356 Van Siclen Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED TWENTY-TWO

In or about October 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and

Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 356 Van siclen Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED TWENTY-THREE

In or about October 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 356 Van Siclen Avenue, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED TWENTY-FOUR

In or about October 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 682 Belmont Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED TWENTY-FIVE

In or about October 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connect on with a property appraisal at 682 Belmont Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED TWENTY-SIX

In or about October 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 312 Milford Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED TWENTY-SEVEN

In or about October 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 312 Milford Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED TWENTY-EIGHT

In or about October 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 312 Milford Street, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED TWENTY-NINE

In or about October 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN, and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward

Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 340 Van Siclen Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED THIRTY

In or about October 1967, witin the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 340 Van Siclen Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED THIRTY-ONE

In or about October 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencin the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurnace on property located at 340 Van Siclen Avenue, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED THIRTY-TWO

In or about October 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban

Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 747 President Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED THIRTY-THREE

In or about October 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximatley $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 747 President Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED THIRTY-FOUR

In or about October 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 616 Schenck Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED THIRTY-FIVE

In or about October 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein, and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing

at 616 Schenck Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED THIRTY-SIX

On or about the 24th day of January 1968, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 616 Schenck Avenue, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED THIRTY-SEVEN

In or about October 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 504 Ashford Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED THIRTY-EIGHT

In or about October 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 504 Ashford Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED THIRTY-NINE

In or about October 1967, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 359 Wyona Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED-FORTY

In or about October 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United Staes, corruptly and directly received from Rose Bernstein, also known as Rose Shorenstein, Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 359 Wyona Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED FORTY-ONE

In or about October 1967, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 438 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED FORTY-TWO

In or about October 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Rose Bernstein, also known as Rose Shorenstein, Harry Bernstein, and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 438 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED FORTY-THREE

In or about October 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 438 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED FORTY-FOUR

In or about October 1967, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 758 Belmont Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED FORTY-FIVE

In or about October 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an

appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Rose Bernstein, also known as Rose Shorenstein, Harry Bernstein, and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 758 Belmont Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED FORTY-SIX

In or about October 1967, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 468 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED FORTY-SEVEN

In or about October 1967, within the Eastern District of New York the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Rose Bernstein, also known as Rose Shorenstein, Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 468 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED FORTY-EIGHT

In or about October 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of i.fluencin

the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 468 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED FORTY-NINE

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 308 Warren Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED FIFTY

In or about November 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 308 Warren Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED FIFTY-ONE

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appariser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to

influence official acts of the said appraiser in connection with a property appraisal and refinancing at 212 Berriman Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED FIFTY-TWO

In or about November 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 212 Berriman Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED FIFTY-THREE

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 381 Douglas Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED FIFTY-FOUR

In or about November 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 381

Douglas Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED FIFTY-FIVE

In or about November 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property on an application for mortgage insurance on property located at 381 Douglas Street, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED FIFTY-SIX

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 726 Sneidecker Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED FIFTY-SEVEN

In or about November 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Depatment of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 726 Sneidecker Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED FIFTY-EIGHT

In or about November 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 726 Sneidecker Avenue, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED FIFTY-NINE

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 519 Barbey Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED SIXTY

In or about November 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 519 Barbey Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED SIXTY-ONE

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 655 Barbey Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED SIXTY-TWO

In or about November 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 655 Barbey Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED SIXTY-THREE

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 499 Essex Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED SIXTY-FOUR

In or about November 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 499 Essex Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED SIXTY-FIVE

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 536 Logan Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED SIXTY-SIX

In or about November 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 536 Logan Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED SIXTY-SEVEN

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 200 St. Marks Place, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED SIXTY-EIGHT

In or about November 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 200 St. Marks Place, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED SIXTY-NINE

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 328 1st Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED-SEVENTY

In or about November 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 328 1st Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED SEVENTY-ONE

In or about November 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencin the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 328 1st Street, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED SEVENTY-TWO

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 452 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED SEVENTY-THREE

In or about November 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and

Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 452 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED SEVENTY-FOUR

In or about November 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 452 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED SEVENTY-FIVE

In or about December 1967, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50 to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 2409 Dean Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED SEVENTY-SIX

In or about December 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Rose Bernstein, also known as Rose Shorenstein, Harry Bernstein, and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 2409

Dean Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED SEVENTY-SEVEN

In or about December 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencin the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingl and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 2409 Dean Street, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED SEVENTY-EIGHT

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN, and EASTERN SERVICE CORPORA TION corruptly and directly paid approximately $50, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 454 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED SEVENTY-NINE

In or about November 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 454 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED EIGHTY

In or about November 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 454 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED EIGHTY-ONE

In or about December 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $50, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 575 Essex Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED EIGHTY-TWO

In or about December 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 575 Essex Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED EIGHTY-THREE

In or about November 1967, within the Eastern District of New York the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin, who was then and there an appraiser employed by the Federal

Housing Administration of the Department Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 1731 Linden Blvd., Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED EIGHTY-FOUR

In or about November 1967, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 1731 Linden Blvd., Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED EIGHTY-FIVE

In or about February 1968, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 793 St. John's Place, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED EIGHTY-SIX

In or about December 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 177 De Kalb Avenue, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED EIGHTY-SEVEN

In or about February 1968, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 780 Belmont Avenue, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED EIGHTY-EIGHT

In or about January 1968, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurnace, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 541 Logan Street, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED EIGHTY-NINE

In or about January 1968, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 41 Stagg Street, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT ONE HUNDRED NINETY

On or about the 15th day of January 1968, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 409 Jerome Street,

Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED NINETY-ONE

On or about the 15th day of Janaury 1968, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 409 Jerome Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED NINETY-TWO

On or about the 15th day of January 1968, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximatley $50, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 400 Van Siclen Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED NINETY-THREE

On or about the 15th day of January 1968, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and

refinancing at 400 Van Siclen Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED NINETY-FOUR

In or about January 1969, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin, who was then and there and appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 918 Sutter Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED NINETY-FIVE

In or about January 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an apppraiser in connection with a property appraisal at 918 Sutter Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED NINETY-SIX

On or about the 14th day of February 1968, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50 to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 617 Vermont Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2)

COUNT ONE HUNDRED NINETY-SEVEN

On or about the 14th day of February 1968, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein, and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal and refinancing at 617 Vermont Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT ONE HUNDRED NINETY-EIGHT

In or about July 1968, within the Eastern District of New York, the defendant ROSE BERNSTEIN, also known as Rose Shorenstein corruptly and directly paid approximately $50 to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 741 Sheffield Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT ONE HUNDRED NINETY-NINE

In or about July 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Rose Bernstein, also known as Rose Shorenstein approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 741 Sheffield Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT TWO HUNDRED

In or about July 1968, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50 to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 17 Wyona Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT TWO HUNDRED-ONE

In or about July 1968, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 17 Wyona Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT TWO HUNDRED-TWO

In or about July 1968, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 17 Wyona Street, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT TWO HUNDRED-THREE

In or about August 1968, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50 to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing

Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 47 Hinsdale Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT TWO HUNDRED-FOUR

In or about August 1968, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an apprais er in connection with a property appraisal at 47 Hinsdale Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT TWO HUNDRED-FIVE

In or about December 1969, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $50, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 2275 Pacific Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT TWO HUNDRED-SIX

In or about December 1969, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 2275 Pacific

Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT TWO HUNDRED-SEVEN

In or about June 1970, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50 to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 1034 Blake Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT TWO HUNDRED-EIGHT

In or about June 1970, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein, and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 1034 Blake Avenue, Brooklyn, New York. (Title 18, United States Code, §201(c)(1)).

COUNT TWO HUNDRED-NINE

In or about June 1970, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development, to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 1034 Blake Avenue, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT TWO HUNDRED-TEN

In or about May 1970, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50 to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 434 Ashford Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT TWO HUNDRED-ELEVEN

In or about May 1970, within the Eastern District of New York, the defendant EDWARD GOODWIN, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Harry Bernstein and Eastern Service Corporation approximately $50, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 434 Ashford Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1).

A TRUE BILL

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FOREMAN.

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United States Attorney

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REDACTED SUPERSEDING INDICTMENT

72 CR. 587

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F.# 723050

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - X

UNITED STATES OF AMERICA

- against -

HARRY BERNSTEIN,
ROSE BERNSTEIN, also known as
Rose Shorenstein,
EASTERN SERVICE CORPORATION,
DUN & BRADSTREET, INC.,
HERBERT CRONIN,
FLORENCE BEHAR,
FRANK FEY,
ARTHUR PRESCOTT,
ORTRUD KAPPAKI,
MELVIN CARDONA,
PATRICIA BUCKLEY,
EDWARD GOODWIN,
JOSEPH JANKOWITZ,
FRANK DREIS,
GREVILLE HARVEY,
ROSE COHEN,
JOSEPH MONTI,
IRVING FIGONITZ,
RALPH GONIAS,
HAROLD KELLER,
MANUEL CARDIO,
DOUGLAS HOLLENBACH and
RICHARD E. BELL,

Defendants.

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SUPERSEDING INDICTMENT

Cr. No.
(T. 18, U.S.C., §201(b)(1
§201(c)(1), §1010, §371
§2)

THE GRAND JURY CHARGES:

COUNT ONE

On or about and between the 30th day of March 1967 and the 29th day of March 1972, within the Eastern District of New York, the defendants HARRY BERNSTEIN, ROSE BERNSTEIN, also known as Rose Shorenstein, EASTERN SERVICE CORPORATION, DUN AND BRADSTREET, INC., HERBERT CRONIN, FLORENCE BEHAR, FRANK FEY, ARTHUR PRESCOTT, ORTRUD KAPPAKI, MELVIN CARDONA, PATRICIA BUCKLEY, EDWARD GOODWIN, JOSEPH JANKOWITZ, FRANK DREIS, GREVILLE HARVEY, ROSE COHEN, JOSEPH MONTI, IRVING FIGONITZ, RALPH GONIAS, HAROLD KELLER, MANUEL CARDIO, DOUGLAS HOLLENBACH, RICHARD E. BELL and Roy Schiller, who is herein named as a co-conspirator but not a defendant, conspired to commit offenses against the United States, namely, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue insurance for loans and advances of credit, the defendants submitted applications for [illegible]

fictitious information in violation of Title 18, United States Code, §1010, and conspired to bribe officials of the Federal Housing Administration of the Department of Housing and Urban Development in order to induce them to unlawfully and corruptly increase the values of real property within the Eastern District of New York and to corruptly procure the improper assignment, processing, review and approval of applications for mortgage insurance submitted by the defendant EASTERN SERVICE CORPORATION to the Federal Housing Administration of the Department of Housing and Urban Development, in violation of Title 18, United States Code, §201.

It was a part of the conspiracy for the defendants HARRY BERNSTEIN, ROSE BERNSTEIN, also known as Rose Shorenstein and EASTERN SERVICE CORPORATION, and its principals and employees including the defendants FLORENCE BEHAR, FRANK FEY, MELVIN CARDONA and PATRICIA BUCKLEY, as well as the defendant real estate broker ORTRUD KAPRAKI and her employees, attorneys and representatives including RALPH GONIAS, IRVING FIGOWITZ, HAROLD KELLER, MANUEL CARPIO, DOUGLAS HOLLENBACH and RICHARD E. BELL to submit false and fraudulent information to the Federal Housing Administration of the Department of Housing and Urban Development, and to submit such false and fraudulent information to the defendant DUN AND BRADSTREET, INC., and for the defendant DUN AND BRADSTREET, INC., to verify and report such information as true although it was known to the defendant DUN AND BRADSTREET, INC., and its employee the defendant ARTHUR PRESCOTT as well as to other responsible officials and employees of DUN AND BRADSTREET, INC., that such information was in fact false, inaccurate and incomplete.

It was further part of the conspiracy for the defendants HARRY BERNSTEIN, ROSE BERNSTEIN, also known as Rose Shorenstein and EASTERN SERVICE CORPORATION to procure false, inflated and excessive valuations on real properties whose mortgage insurance applications were being processed through Eastern Service Corporation, to procure the expeditious handling of such applications, and to cause officials of the Federal Housing Administration of the Department of Housing and Urban Development to fail to [illegible]

said applications to proper review procedures by bribing and causing to be bribed officials of the Federal Housing Administration of the Department of Housing and Urban Development.

As a further part of the conspiracy, the defendant HERBERT CRONIN, by virtue of his position as chief underwriter at the Hempstead, New York office of the Federal Housing Administration of the Department of Housing and Urban Development corruptly used the discretionary powers entrusted to him in his official office in that he wilfully, directly and indirectly increased the value of mortgage insurance commitments on behalf of the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN and EASTERN SERVICE CORPORATION and their customers. (Title 18, United States Code, §371).

In furtherance of and to effect the illegal objects of the conspiracy the defendants committed the following:

OVERT ACTS

1. The Grand Jury repeats and realleges each and every allegation in Counts 2 through 65, as though fully set forth herein.

COUNT TWO

On or about the 27th day of November 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 440 41st Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT THREE

On or about the 15th day of November 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 440 41st Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT FOUR

On or about the 4th day of December 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIAL BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 347 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT FIVE

On or about the 25th day of November 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 345 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2).

COUNT SIX

On or about the 15th day of November 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 345 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT SEVEN

On or about the 20th day of November 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 365 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT EIGHT

On or about the 14th day of November 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 365 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT NINE

On or about the 28th day of October 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 232 Lexington Avenue, Brooklyn, New York. (Title 18, United STates Code, §1010 and §2.)

COUNT TEN

On or about the 28th day of January 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA, and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 218 52nd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT ELEVEN

On or about the 30th day of October 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC:, its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 218 52nd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT TWELVE

On or about the 20th day of January 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA, RICHARD E. BELL, RALPH GONIAS, DOUGLAS HOLLENBACH, and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 272 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT THIRTEEN

On or about the 13th day of January 1969, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT, and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 272 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT FOURTEEN

On or about the 26th day of February 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA, HAROLD KELLER, RALPH GONIAS, and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 178 26th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT FIFTEEN

On or about the 17th day of February 1969, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT, and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 178 26th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT SIXTEEN

On or about the 1st day of April 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA, RALPH GONIAS, RICHARD E. BELL, HAROLD KELLER, HERBERT CRONIN and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property

located at 63 Malta Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT SEVENTEEN

On or about the 16th day of June 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA, IRVING FIGOWITZ, MANUEL CARPIO and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 256 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT EIGHTEEN

On or about the 23rd day of December 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 321 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT NINETEEN

On or about the 31st day of October 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 321 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT TWENTY

On or about the 3rd day of December 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA, and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 267 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT TWENTY-ONE

On or about the 2nd day of January 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 359 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT TWENTY-TWO

On or about the 21st day of November 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 359 57th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT TWENTY-THREE

On or about the 13th day of December 1968, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 414 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT TWENTY-FOUR

On or about the 27th day of November 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 414 48th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT TWENTY-FIVE

On or about the 3rd day of April 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 416 52nd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT TWENTY-SIX

On or about the 17th day of March 1969, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 416 52nd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT TWENTY-SEVEN

On or about the 27th day of March 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, ORTRUD KAPRAKI, MELVIN CARDONA, FLORENCE BEHAR and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 331 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT TWENTY-EIGHT

On or about the 17th day of April 1969, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, ORTRUD KAPRAKI, MELVIN CARDONA, FLORENCE BEHAR and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 338A 20th Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT TWENTY-NINE

On or about the 31st day of October 1968, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $100, to one Joseph Jankowitz, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 260 51st Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT THIRTY

On or about the 31st day of October 1968, within the Eastern District of New York, the defendant JOSEPH JANKOWITZ, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 260 51st Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1).)

COUNT THIRTY-ONE

On or about the 4th day of February 1969, within the Eastern District of New York the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR, PATRICIA BUCKLEY, ORTRUD KAPRAKI, MELVIN CARDONA and EASTERN SERVICE CORPORATION, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 211 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT THIRTY-TWO

On or about the 29th day of October 1968, within the Eastern District of New York, the defendant DUN & BRADSTREET, INC., its employee, the defendant ARTHUR PRESCOTT and the defendant EASTERN SERVICE CORPORATION, did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 211 53rd Street, Brooklyn, New York. (Title 18, United States Code, §1010 and §2.)

COUNT THIRTY-THREE

On or about the 30th day of January 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI, aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Joseph Jankowitz who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with property appraisal at 211 53rd Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT THIRTY-FOUR

On or about the 30th day of January 1969, within the Eastern District of New York, the defendant JOSEPH JANKOWITZ, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development an agency of the United States, corruptly and directly received from Ortrud Kapraki, approximatley $100, with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal at 211 53rd Street, Brooklyn, New York. (Title 18, United States Code, §201(c)(1).)

COUNT THIRTY-FIVE

On or about the 2nd day of April 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Edwaard Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 2503 Albemarle Road, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT THIRTY-SIX

On or about the 25th day of July 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN also known as Rose Shorenstein and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 371 12th Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT THIRTY-SEVEN

On or about the 14th day of July 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants FLORENCE BEHAR, ROSE BERNSTEIN, also known as Rose Shorenstein and EASTERN SERVICE CORPORATION, corruptly and directly paid approximatley $100, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official

acts of the said appraiser in connection with a property appraisal at 570 55th Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT THIRTY-EIGHT

On or about the 26th day of July 1969, within the Eastern District of New York, the defendant ORTRUD KAPRAKI aided and abetted by the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, FLORENCE BEHAR and EASTERN SERVICE CORPORATION, corruptly and directly paid approximately $100, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 172 26th Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT THIRTY-NINE

In or about October 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 190 Adelphi Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT FORTY

In or about October 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 190 Adelphi Street, Brooklyn, New York. (Title 18, United States Code, §1010.)

COUNT FORTY-ONE

In or about October 1967, within the Eastern District of New York, the defendant HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 185 Sackman Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT FORTY-TWO

In or about October 1967, within the Eastern District of New York the defendant HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 356 Van Siclen Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT FORTY-THREE

In or about October 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 356 Van Siclen Avenue, Brooklyn, New York. (Title 18, United States Code, §1010.)

COUNT FORTY-FOUR

In or about October 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward

Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 312 Milford Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT FORTY-FIVE

In or about October 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 312 Milford Street, Brooklyn, New York. (Title 18, United States Code, §1010.)

COUNT FORTY-SIX

In or about October 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN, and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 340 Van Siclen Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT FORTY-SEVEN

In or about October 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at [illegible] Brooklyn, New York. (Title 18, United

States Code, §1010.)

COUNT FORTY-EIGHT

In or about October 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 616 Schenck Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT FORTY-NINE

On or about the 24th day of January 1968, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 616 Schenck Avenue, Brooklyn, New York. (Title 18, United States Code, §1010.)

COUNT FIFTY

In or about October 1967, within the Eastern District of New York, the defendants ROSE BERNSTEIN, also known as Rose Shorenstein, HARRY BERNSTEIN, and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 468 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT FIFTY-ONE

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward

Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 381 Douglas Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT FIFTY-TWO

In or about November 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administation of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property on an application for mortgage insurance on property located at 381 Douglas Street, Brooklyn, New York. (Title 18, United States Code, §1010.)

COUNT FIFTY-THREE

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 726 Snediker Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT FIFTY-FOUR

In or about November 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at

726 Snediker Avenue, Brooklyn, New York. (Title 18, United States Code, §1010.)

COUNT FIFTY-FIVE

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 328 1st Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT FIFTY-SIX

In or about November 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 328 1st Street, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT FIFTY-SEVEN

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 452 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT FIFTY-EIGHT

In or about November 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 452 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT FIFTY-NINE

In or about November 1967, within the Eastern District of New York, the defendants HARRY BERNSTEIN, and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50, to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 454 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2).

COUNT SIXTY

In or about November 1967, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 454 Miller Avenue, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT SIXTY-ONE

On or about the 14th day of February 1968, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50 to one Edward Goodwin, who was then and there an

appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal and refinancing at 617 Vermont Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT SIXTY-TWO

In or about July 1969, within the Eastern District of New York, the defendant ROSE BERNSTEIN, also known as Rose Shorenstein corruptly and directly paid approximately $50 to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 741 Sheffield Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT SIXTY-THREE

In or about July 1968, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50 to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 17 Wyona Street, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

COUNT SIXTY-FOUR

In or about July 1968, within the Eastern District of New York, the defendant HERBERT CRONIN, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and wilfully overvalued a security, namely real property, on an application for mortgage insurance on property

located at 17 Wyona Street, Brooklyn, New York. (Title 18, United States Code, §1010).

COUNT SIXTY-FIVE

In or about June 1970, within the Eastern District of New York, the defendants HARRY BERNSTEIN and EASTERN SERVICE CORPORATION corruptly and directly paid approximately $50 to one Edward Goodwin, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, with intent to influence official acts of the said appraiser in connection with a property appraisal at 1034 Blake Avenue, Brooklyn, New York. (Title 18, United States Code, §201(b)(1) and §2.)

A TRUE BILL.

FOREMAN.

UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

PROCEEDINGS OF JULY 24, 1973

[Conflict of Interest Hearing]

C 145

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA, :

-against- :

HARRY BERNSTEIN, et al, : 72 CR 587

- Defendants. :

----------x

United States Courthouse
Brooklyn, New York

July 24, 1973
3:00 P.M.

B e f o r e:

HONORABLE ANTHONY J. TRAVIA, U.S.D.J.

HEARING ON CONFLICT
OF INTEREST

EMANUEL KARR
OFFICIAL COURT REPORTER

I Hereby certify that the foregoing is a true and accurate transcript from my stenographic notes in this proceeding.

Official Court Reporter
U.S. District Court

100

Appearances:

ROBERT A. MORSE, ESQ.,
United States Attorney
for the Eastern District of New York

BY: A. T. ACCETTA, ESQ.,

RONALD DE PETRIS, ESQ.,

GEORGE G. BASHIAN, JR., ESQ.,
Assistant United States Attorneys

ABRAHAM H. BRODSKY, ESQ.,
Attorney for Harry and Rose Bernstein,
Eastern Service Corporation,
Patricia Buckley and
Emanuel Hirsch.

HENRY J. BOITEL, ESQ.,
Attorney for Florence Behar

(At 3:00 O'clock on the afternoon of July 24th, 1973, the hearing on conflict of interest began before his Honor, Judge Travia. Mr. Brodsky first addressed his Honor, following which, during a point where Mr. Brodsky was conferring with his clients, Mr. Boitel began to address the Court.)

THE COURT: Mr. Boitel?

MR. BOITEL: Your Honor, I though perhaps while Mr. Brodsky was talking to his clients we can get another matter out of the way relating to the same case.

Your Honor, the Government is aware that the Bernsteins are financing the legal defense of my client --

THE COURT: That is something I did not know. I was wondering why you were here for the moment.

MR. BOITEL: That is why I am here because although the County Court has not directed that that waiver under these circumstances be given we thought perhaps we would present to the Court this matter so that if the Court would like to question my client --

THE COURT: I would.

MR. BOITEL: (continuing) as to her feelings on the matter --

THE COURT: I would, in view of the fact that that is so, that they are financing you to represent her --

MR . BOITEL: That is correct.

THE COURT: Now aren't they somehow going to be in a position where they can say to you, somehow, about how you are going to conduct the case?

First, who is she?

MR. BOITEL: She is Florence Behar, she is an officer of the corporation.

Now I think the issue before the Court with regard to her is twofold:

No. 1. Does she have any doubt in her mind that whatever she tells me is absolutely privileged unless and until she tells me to reveal it to anyone.

No. 2. If I should have any information in my possession that may be of benefit to her, would I hesitate for a moment to use it because it might prejudice the people who are financing her defense.

I think those are the questions which the

Court should address itself to with regard to my client.

There is a third issue --

THE COURT: And will she feel a little embarrassed were she to take the stand if she wished to take the stand.

MR. BOITEL: Precisely.

THE COURT: And were to say, I wasn't involved, it was them --

MR. BOITEL: Well --

THE COURT: Or, They were telling me what to do, or, I was -- You say she was a member of the corporation or is she an employee.

MR. BOITEL: She was.

THE COURT: She is an employee.

MR. BOITEL: She was an employee of the corporation, she was nominally an officer to sign papers.

THE COURT: She could very well take the position that it was her duty to do what she was told by the corporate officers, and wouldn't she then be in direct conflict with the interests of the others if they in return said she was not only doing her job, she used her own conscience and did

what she thought she ought to and she committed the crime and they did not tell her about her work.

MR. BOITEL: I think the issue, your Honor, as outlined is whether she feels that in the conduct of her defense that she would somewhat have to limit her defense in the interest of some other person or persons like the Bernsteins who are financing her defense, and that is an absolutely proper question in those terms, but I don't think at --

THE COURT: How about yourself, how do you feel?

You know now I am worrying about you as a lawyer --

MR. BOITEL: That is why --

THE COURT: I am just wondering whether the Canons of Ethics don't bind you to be careful about that in view of the fact that both you and Mr. Brodsky are able lawyers, as you are, but you could very well get yourselves fouled up when you are both being paid by the same people and yet representing different people.

MR. BOITEL: I should say to the Court that

from the outset of my representation in this case it has been made clear, in fact it is in writing, I should have brought the writing with me, I didn't but I would be happy to supply it to the Court, it is in writing from the outset that there is a clear understand on the part of those who are financing my client's defentse that I represent her and only her, that it is only her interest I have at stake, that to the degree that I cooperate with Mr. Brodsky it is a cooperation between attorneys of the type that should exist in a case, particularly in a complex case, but not cooperation as to what the defense is going to be or my client --

THE COURT: You well know, you well know in what way you might be inhibited, and You know what I mean by "inhibited," inhibited as a lawyer to go out and punch holes in anybody who makes any accusatory remarks.

MR. BOITEL: I think I can safely say that I have never been inhibited in anything in the interest of my clients.

THE COURT: I don't say that you would, I am just saying that circumstances as are such in this case that it might present itself to you as a

assume the worst, she is found guilty and sent away, right, well, she can start screaming she didn't have the correct representation, etc., and that had she known about the question of conflict of interest -- she will get all kinds of ideas what she should have done, what she should have gotten from you, and she is going to yell about 2255: right?

MR. BOITEL: My client, your Honor, will waive any right that she may have to claim a conflict of interest by virtue of the fact that her defense is being finances by co-defendants; that she will do. Now, if we get into any other area, and I don't know what any other area could exist in this case, if we get into any other area, well, perhaps I would be asking her to waive more than she should properly bewaiving.

THE COURT: I'm only interested in her waiving any rights that she may claim so that she could no longer say that she did not have the proper legal assistance in the trial of her case. That, as you know, from recent decisions, be sufficient to reverse, and that is on the basis of recent decisions -- and I am just assuming the worst,

assuming there is a conflict of interest -- if there is an acquittal, that goes without saying, who cares then: right?

MR. BOITEL: Right.

THE COURT: It is only on the chance that she would be found guilty.

MR. BOITEL: That is correct.

THE COURT: Once they are found guilty, you know, and I don't have to tell you the beautiful letters I receive which sound and are in many instances very well written that one wonders whether the good lawyers aren't in there.

MR. BOITEL: I understand.

In any event, as I analyze this the determination in the first instance is really mine because I am close to it.

In the second instance it's my client's, and in the third instance it is the Court's.

There is an additional item I think we ought to discuss at this point:

Everyone is now aware I am certain of the fact that my expenses and my fees are being covered by the co-defendants --

THE COURT: I just learned that myself.

MR. BOITEL: I say everyone is now aware of it.

THE COURT: Yes.

MR. BOITEL: There is a possible area of conflict or a possible are of prejudice that could be suffered by my client, and perhaps we can get it out of the way now:

I don't think that the fact that my client's defense is being financed by the co-defendants is proper information which should be placed before a jury in this case for any purpose. If it is the intent of the Government to place it before the jury for any purpose, then we have a problem. I don't want my client to be in a position where whether or not she takes the stand this might get to the jury and therefore they will think she is in some league and in some way with the co-defendants, that certainly should not be the case.

THE COURT: Yes, that might be prejudicial.

MR. BOITEL: That is correct, and I think it would be improper for it to be done.

(continued on next page)

MR. ACCETTA: I think what Mr. Boitel is referring to --

THE COURT: Do you have anything like that in mind.

MR. ACCETTA: No, no, no, not expressly, your Honor, but I think what Mr. Boitel is referring to is certain taped conversations the contents of which he is well aware of in which as a part of the conspiracy there were certain statements made that Mrs. Behar was being financed in her Grand Jury appearances by the Bernsteins, and the Government certainly intends to introduce that evidence at the trial. The Government will not make much ado the continued representation and payment by the Bernsteins, as far as trial purposes are concerned, I think that would be unfair and we don't need it.

THE COURT: You understand that.

MR. BOITEL: I certainly do.

THE COURT: They can certainly not be stopped from playing anything on the tapes.

MR. BOITEL: That matter I can object to at the time of the tape, it doesn't say that I am the attorney involved and the jurors have no way

of knowing that at this trial she is being represented by an attorney who is being financed by the co-defendants: That is what I want to avoid.

THE COURT: I think so.

All right.

MR. BOITEL: Okay.

Thank you, your Honor.

THE COURT: All right.

(At this point Mr. Brodsky then pursued matters germane to his representation, following which Mr. Boitel continued as follows.)

THE COURT: Mr. Boitel, let us take your client.

She is the one from whom I did not receive any affidavit.

MR. BOITEL: No, sir, I think you only directed that those people whose attorneys were representing more than one client should submit those.

THE COURT: Your question -- not your question but the question regarding your client arose today before me.

MR. BOITEL: That is correct, I brought it

to your Honor's attention.

THE COURT: All right, let us go.

MR. BOITEL: Mrs. Behar, please.

F L O R E N C E B E H A R, called as a witness, being duly sworn by the Clerk of the Court, testified as follows:

EXAMINATION

BY MR. BOITEL:

Q Mrs. Behar, I have represented you since the commencement of these proceedings against you; have I not?

A Yes.

Q In fact, before you were indicted here I represented you briefly when you were summoned to appear before the Grand Jury; is that correct?

A That is correct.

Q Now, you are aware that at the outset of my representation of you it was agreed that the Bernsteins were to pay my fee for representing you.

A That is right.

Q And you have been aware of that from the outset?

A That is right.

Q And you are aware, are you not, that for the services that have been rendered to date I have been compensated by the Bernsteins?

A Yes.

Q And you are aware of the fact, are you not, that the Bernsteins have agreed to compensate me for the services I will render to you between now and the termination of these proceedings against you?

A Yes, sir.

Q And has that been with your full knowledge?

A Yes.

Q And has that been with your full consent?

A Yes.

Q Would you have been able to pay for an attorney's services during this period on your own?

A No.

Q Do you believe that as an employee of Eastern Service Corp. it is appropriate for the principals of that corporation or the principal of that corporation to underwrite your legal defense in this matter?

A Yes, sir.

Q Is there any doubt whatsoever in your mind that if at any time during the course of these proceedings it should become necessary, desirable or helpful in your defense for me to, through cross-examination or summation, point the accusatorial finger at any person who is involved in underwriting your defense, is there any doubt in your mind that I

will do so?

A Yes, you will do so.

Q Is there anything aside from what you have just said that you would like to make known to the Court?

A I can't think of anything.

MR. BOITEL: Your Honor.

THE COURT: Is it Miss or Mrs. Behar?

THE WITNESS: Mrs.

THE COURT: Mrs. Behar, Mr. Boitel asked you a question about whether or not you would be able to retain your own attorney --

THE WITNESS: Yes, sir.

THE COURT: (continuing) if your attorney's fees had not been assumed by the Bernsteins or the corporation.

THE WITNESS: I could not pay my own attorney.

THE COURT: Are you aware if you could not afford counsel that the Court would appoint counsel for you and you wouldn't have to pay for it and the Government would pay for it?

THE WITNESS: I am aware of that, yes, sir.

MR. BOITEL: Your Honor --

THE COURT: Would that make --

MR. BOITEL: Excuse me.

There is a line I should have gone into and perhaps --

THE COURT: You had better.

MR. BOITEL: Okay.

THE COURT: All right.

CONTINUED EXAMINATION

BY MR. BOITEL:

Q At the outset of these proceedings, did I advise you that, first of all -- well, did we, did we discuss this question of conflict, the fact that other people were paying for your defense but in fact my sole obligation should be to you?

A Yes.

Q Did we discuss that at the very beginning?

A Yes.

Q And have we discussed it periodically since that time?

A Yes.

Q Did I advise you that in the event that you had any doubt whatsoever in your mind as to the fidelity of my representation of you in this case that --

THE COURT: That is a loaded, a leading question.

Why don't you ask her, you know --

MR. BOITEL: I am trying to be precise.

THE COURT: Don't be so legalistic with Mrs. Behar. I want you to speak to her in mundane language, "dese", "those."

Give it to me straight.

BY MR. BOITEL:

Q Did I advise you from the outset and periodically thereafter that if there were any doubt whatsoever that my sole loyalty in this case ran to you, if there were any doubt in your mind whatsoever that in fact you should get another attorney?

A Yes, sir.

Q And did I advise you that if you could not afford to pay for an attorney that you could make application to the Court and the Court would assign an attorney to represent you without charge?

A Yes, sir.

MR. BOITEL: All right.

That is all, your Honor.

THE COURT: Are you employed by Eastern Service.

THE WITNESS: Yes, I am.

THE COURT: How long have you been so employed?

THE WITNESS: Fourteen years.

THE COURT: In other words you are there almost as long as the corporation.

THE WITNESS: Yes.

THE COURT: And you have been working for Mr. Bernstein?

THE WITNESS: Yes.

THE COURT: And when this incident occurred and this indictment was handed down, did he approach you to help you out or did you approach him about asking him to help you?

THE WITNESS: Would you repeat that, I want to hear it clearly.

THE COURT: I want to know if he approached you and said, Don't worry about it, I will get you your lawyer and pay for your lawyer?

THE WITNESS: Who is "he"?

THE COURT: Mr. Bernstein or anybody else in that corporation.

THE WITNESS: I believe --

MR. BOITEL: I think the witness would testify --

THE COURT: Why don't you let her answer the question.

MR. BOITEL: Well, rather than to get into

the details of conversations, I think we can put it this way --

THE COURT: I'm not going to let you put it your way, you are going to put it my way.

I am the one that is going to be satisfied here, not anybody else.

MR. BOITEL: I didn't want my client to testify about the details of any conversation she had with anyone.

THE COURT: I am not at all -- I am asking her if someone in the corporation approached her and tell her, Don't worry about a lawyer, we will take care of it.

MR. BOITEL: Well, well --

THE COURT: Or did she ask Mr. Bernstein or anybody else in the corporation to take care of her defense.

How did it work, which way?

I don't want to know the details as to why or anything like that.

What Mr. Boitel is worried about -- I am not -- I just want to know who initially or how this began that you would have a lawyer for your of Mr. Boitel's character and not have to worry about

paying, that's all I'm interested in knowing.

THE WITNESS: Well, well, I have been employed, I am an employee of the corporation for fourteen years and I have been an employee and I believe it was a mutual understanding, your Honor.

THE COURT: How did it occur, you appeared in Court and you were approached, "I'm going to appear for Mrs. Behar?"

THE WITNESS: Who is that, Mr. Boitel?

THE COURT: Yes.

Did you call him.

THE WITNESS: No, no, I didn't.

THE COURT: You didn't know him.

THE WITNESS: No, I didn't.

THE COURT: Before this.

THE WITNESS: No, I didn't.

THE COURT: Mr. Bernstein said, I will get you a lawyer.

THE WITNESS: Right.

THE COURT: Now you are working for the corporation.

THE WITNESS: Yes.

THE COURT: What is the nature of your work for the corporation?

THE WITNESS: Well, I was in the part of the processing section.

THE COURT: These applications.

THE WITNESS: That is right.

THE COURT: Now, envision with me what I hypothesized with the Bernsteins: right?

THE WITNESS: Yes.

THE COURT: That there could arise a situation such as this where you could be on the stand and say that you didn't do anything wrong, what you did, what you always did you followed orders of Mr. Bernstein and that it was this type of work that you would always do and you had nothing in mind about anything of the so called charges they are bringing, you did nothing wrong, you were just doing the ordinary course of work and just did it: you could say that, right?

THE WITNESS: Yes, sir.

THE COURT: And somebody could say, That isn't so, she knew what she was doing. You have been there fourteen years, you certainly know the nature of an application --

THE WITNESS: Right.

THE COURT: You know what the substance of an

application is and what goes into the form of an application: right?

THE WITNESS: Yes.

THE COURT: And they could say, Oh, oh, she has been with us fourteen years, she knows as much about it as anybody else, and she was doing this on her own.

Now that could create quite a problem, wouldn't it?

THE WITNESS: Yes, sir.

(continued on next page)

THE COURT: Now, it is true that you and the Bernsteins and the corporation don't have the same lawyer, you have Mr. Boitel.

THE WITNESS: Yes, sir.

THE COURT: But you tell me that Mr. Bernstein retained Mr. Boitel for you.

THE WITNESS: (Answering in the affirmative by nodding her head.)

THE COURT: And I am wondering if you could even envision the possibility that maybe Mr. Bernstein might as Mr. Boitel to help him out or to help Mr. Brodsky, who is his lawyer, who is the lawyer for Mr. Bernstein --

THE WITNESS: I don't feel that possibility exists.

THE COURT: You don't feel any possibility of a conflict arising?

THE WITNESS: No.

THE COURT: You don't think that possibly Mr. Boitel might feel somewhat obligated, you don't even think that he might feel obliged or obligated to Mr. Bernstein who is paying him?

THE WITNESS: Well, I don't, I don't feel any possibility or anything about it.

THE COURT: Do you believe, as I suggesting, that it might happen, in other words there is that possibility.

THE WITNESS: Yes.

THE COURT: If that possibility occurs, then you know you have got a problem: right?

THE WITNESS: Yes.

THE COURT: And I am raising this problem now because this is the time to raise it when you have an opportunity to get someone that you want yourself, and if you can't afford someone, you make an application to the Court for retention or retained of counsel to be paid for by the Government because the Government is bringing this charge against you.

THE WITNESS: Well, can I say I want Mr. Boitel.

THE COURT: Yes, you may.

THE WITNESS: All right, I want Mr. Boitel.

THE COURT: I am just telling you that these are possibilities that may occur and that at any time should it unfortunately occur and that you should be convicted, and say even after the conviction you have the right to raise this

issue of conflict of interest, and that you can say that some prejudice was created had you known the situation, that you would have insisted on a lawyer that you yourself or through the Court would have retained rather than one who was retained for you by the persons whose conflict may be a conflict we are talking about.

Now I am just raising that possibility with you so that you will know and you can tell me, Sure, I know what you are talking about and I don't care and I still want Mr. Boitel.

THE WITNESS: Yes, sir.

THE COURT: You can do that, but in that event I am going to ask you to make a voluntary and knowing waiver of any such rights and privileges that you may bring out at any time in the future, not only now but all the time, right to the very bitter end.

Are you willing to do that?

THE WITNESS: Yes, I am.

THE COURT: Therefore you will voluntarily waive any question that may arise at any time in the future.

THE WITNESS: That is right.

THE COURT: With regard to conflict of interest or as to prejudice that may occur to you and you waive also the right to claim the effective assistance of counsel.

THE WITNESS: Yes, sir, I want Mr. Boitel.

THE COURT: You are willing to make that waiver.

THE WITNESS: Yes, I am.

THE COURT: That is what I want to know, that that waiver is for now and in the future.

THE WITNESS: Yes, sir.

THE COURT: Now, Mr. Boitel, I think you ought to make a statement because I think your problem might be with the Canons.

MR. BOITEL: Does your Honor -- I noticed -- let me say this, your Honor, in the case of the other defendants your Honor has made a finding of conflict.

THE COURT: Yes, I make the same finding in this.

MR. BOITEL: Then I withdraw from the case, I don't want to proceed in this case.

THE COURT: That is alright.

I am going to make that finding in this case

and I feel that possibility is there, and as long as the possibility is there I think then that she always has that right right to the very bitter end and I would never deny her that right, and as long as I never deny that right I must in good conscience make the finding that a conflict exists.

MR. BOITEL: I don't believe there is a conflict, my client does not, I don't understand the basis upon which Your Honor has found the conflict, but if your Honor so finds I think it will be appropriate under the conditions for me not to proceed.

THE COURT: I don't know, I think she has a right to waive it and you can make a statement with regard to what you think --

MR. BOITEL: That is not the way I practice law, I am sorry.

Now I don't find --

THE COURT: I admire you for it, but that possibility does exist and I think that situation does arise, that she has that right.

MR. BOITEL: The possibility always exists.

THE COURT: That waiver is hers --

MR. BOITEL: A lawyer can always sell out a

client, that is a possibility, certainly, but I am talking about a finding of actual conflict, if your Honor finds there is a conflict, then I choose not to represent her.

THE COURT: I indicated my belief was based upon the fact, and I do believe and it is my belief that she is an employee of this corporation and has been for more than fourteen years, which corporation is one hundred percent owned by Harry Bernstein, who is a defendant in this case and who has been the one hundred percent owner of it since its inception eighteen years, in other words she has been there almost as long as the inception of the corporation and she is employed by this corporation and processed applications which are inherently in the very count that I spoke of.

Now if that doesn't create the possibility of conflict of interest, then I don't know what could possibly create a conflict, and I am going to make that finding on that basis.

MR. BOITEL: Then I see two possibilities here, your Honor, one --

THE COURT: I still said to her that if she wants to waive, that if she did voluntarily waive

it she may, and now the question is what you want to --

MR. BOITEL: Your Honor has made it clear.

THE COURT: If you want -- please --

MR. BOITEL: I am sorry.

THE COURT: Whether you want to withdraw, that is your business --

MR. BOITEL: Your Honor --

THE COURT: As far as she is concerned she is willing to waive that conflict, and I mean it is your business.

MR. BOITEL: It is our business, yours and mine, professionally, and I am not going to operate with a cloud over my head.

THE COURT: It is not "our," it applies to you, don't apply it to me, I am not in your position.

MR. BOITEL: I mean we are in the same profession, that is what I mean.

THE COURT: That is alright but the problem is yours, not mine. My problem is with her and I have explained it to her, what the possibility could be and she nevertheless waived it, and as far as I am concerned I was willing to be satisfied to accept that waiver, as you know. Then I asked

you, I thought you ought to make a statement --

MR. BOITEL: Exactly.

THE COURT: And you said if I make that finding you withdraw.

That is good enough for me, stop right there.

MR. BOITEL: Okay.

THE COURT: Let us not -- I'm not asking you any questions because you know the Canons of Ethics I assume as well as I do, and that is up to you.

MR. BOITEL: If your Honor should see fit to assign me, I would be happy to act under assignment.

THE COURT: I certainly wouldn't assign you then, I would just have the same problems.

MR. BOITEL: Fine -- well, I understood that any problem that existed here was because --

THE COURT: There is no problem there, you misunderstood me completely, there is no problem between me and you, the problem is between me and Mrs. Behar, and I explained it to her and I made the findings and I accepted the waiver --

MR. BOITEL: That is right.

THE COURT: If you choose to withdraw, and

how can you in good conscience once you choose to withdraw as her attorney except an appointment by me to represent the same defendant.

MR. BOITEL: Very easily, your Honor, and I will explain that --

THE COURT: Well, don't explain it, I don't care to hear that explanation.

MR. BOITEL: I think it is a matter of personal privilege that I should be permitted to.

THE COURT: Okay, I will listen.

MR. BOITEL: As I understood it, your Honor found a conflict here because the co-defendant was underwriting the legal expenses of my client. If there is no underwriting, then the conflict disappears. That is why I made the suggestion, that is solely the reason, not because I want to stay in this case. I thought I was being of aid to the Court.

THE COURT: Well, you have the right to make a statement which would clarify any suggestion that applies to you --

MR. BOITEL: Yes, sir.

THE COURT: (continuing) and within the Canons of Ethics framework I offered you that

opportunity, you choose not to do that, instead you said on that basis I withdraw, and I am quick to agree --

MR. BOITEL: The minutes will show --

THE COURT: I don't duck, I don't duck --

MR. BOITEL: The minutes will show that I said I believe there is no conflict of interest, my client believes there is no conflict of interest, but in view of the fact that the Court has found there is a conflict, I don't think I can proceed, that is what I said.

(continued on next page)

THE COURT: All right, and you chose to withdraw.

Did you use that word, I therefore withdraw?

MR. BOITEL: That is correct, that is absolutely correct.

THE COURT: Okay.

That is your choice, not mine.

That is your choice.

MR. BOITEL: May I then ask that your Honor assign counsel for my client.

THE COURT: I shall in due course of finding somebody willing to accept her defense of this case, that is if I find that she is not able to pay for a lawyer, and that is another question.

MR. BOITEL: Thank you.

THE COURT: She will have to sign an affidavit of indigency for the Court.

Mrs. Behar --

THE WITNESS: Yes, sir.

THE COURT: Are you presently working?

THE WITNESS: Yes, sir, I am.

THE COURT: And do you own your own home?

THE WITNESS: No, I don't.

THE COURT: Your husband?

THE WITNESS: Pardon.

THE COURT: Does your husband own the home?

THE WITNESS: No.

THE COURT: When you said, "no," you meant you and your husband don't own a home.

THE WITNESS: Yes.

THE COURT: Have you any funds?

THE WITNESS: I have some.

THE COURT: Put away.

THE WITNESS: Yes.

THE COURT: And may I ask you how much you earn a week?

THE WITNESS: I earn two hundred dollars a week.

THE COURT: I'm going to ask you first to try to attempt to retain your own attorney, and I can't give you much time because I feel that any lengthy adjournment here would require the possible adjournment of the case and that is what I won't stand for.

THE WITNESS: Well, your Honor, may I ask a question?

THE COURT: You'd better ask that of Mr. Boitel if it does have something to do -- well,

does it have something to do with what I was asking you?

THE WITNESS: It does.

THE COURT: Tell me.

THE WITNESS: Couldn't I keep Mr. Boitel.

THE COURT: That is something else, he has withdrawn.

THE WITNESS: We have done a lot of work together, he is an excellent attorney, I have been living through a nightmare, I really have. This is something new to me.

THE COURT: I sympathize with you and I know it.

THE WITNESS: I have never been involved with anything like this before, he makes me feel, you know, comfortable.

THE COURT: I am sure he is a good lawyer, I know that myself.

THE WITNESS: Couldn't he please continue with me as my attorney, I would appreciate it, your Honor.

THE COURT: That poses a very serious problem for me as to whether I will let him continue after he made the statement that he would not

represent you -- that he would not -- no, I won't say that, I withdraw that.

He said that he would withdraw from the case after I made the finding of the possibility of conflict here, and that puts him in a position where he has to now accept your defense because I am going to appoint him. He is now in an embarrassing position with the Court, as far as I'm concerned, because how can he say that he withdraws from the defense of your case and then turns right around and accepts an appointment from me to appoint him to represent you in this case. I think that is completely incongruous and inconsistent in his position altogether, and I wouldn't take that.

THE WITNESS: Can I continue the way it was before, your Honor.

THE COURT: That is up to Mr. Boitel because he is the one that has withdrawn under the circumstances, under the finding.

MR. BOITEL: Your Honor, I would be under the circumstances -- you see, the only reason is because this is my client, I feel for her --

THE COURT: You should.

MR. BOITEL: I would be happy to submit the question to the Bar Association, if the Bar Association says I can represent her under these circumstances, I will, but I am not going to operate under an eithical cloud.

THE COURT: You are going to have to decide because it is going to be your decision to make.

MR. BOITEL: I understand that but I would like to do it.

THE COURT: It is your decision.

MR. BOITEL: I would like to do it upon a finding by the Bar Association that there is no conflict.

THE COURT: That part is okay, if you are going to seek the aid of the Bar Association to ultimately make your decision --

MR. BOITEL: I will submit a copy of the transcript.

THE COURT: Then I would ask you to withhold you decision at this time otherwise I will hold you to it.

MR. BOITEL: Well, what I would do is --

THE COURT: I don't want this to go on for a month.

MR. BOITEL: No, sir, no, sir.

I hereby order from the Court Reporter a copy of the minutes in regard to my client, I will take these minutes and submit them to the Bar Association and ask for an ethical opinion.

THE COURT: It is okay with me, and if after that you feel you can stay in the case, I am willing to accept --

MR. BOITEL: I understand, I understand.

THE COURT: As far as she is concerned, I will accept her waiver, but you are the one that under those circumstances said you would withdraw.

Now any problem you have with the Bar Association is between you and them as to your position and it is your determination.

MR. BOITEL: All I'm saying is that I am holding in abeyance the issue of whether I will withdraw.

THE COURT: That is right.

MR. BOITEL: That is all, and if the Bar Association advises that it would be inappropriate for me to represent this client, then I will withdraw at that time and immediately.

THE COURT: Okay.

Now, how long is that going to take.

MR. BOITEL: Your Honor knows exactly as much about it as I do, I am sure.

THE COURT: You know from having been in this case that one is not going to be able to learn all the facets of it overnight, and we have a definite date to try this case, October 2nd.

MR. BOITEL: I didn't understand that to be a conflict before your Honor made such a finding, I came here to make it clear to the Court what the underlying circumstances were, that is all.

THE COURT: After my discussion with this client of yours I feel such a conflict does exist.

I think the possibility exists, anyway.

MR. BOITEL: The possibility, yes.

THE COURT: Because we know that this finding cannot be based upon the fact that she did take the stand and so testified and that somebody else took the stand and so testified, because I don't know what is going to happen, I can only presuppose that that situation could occur.

Now you know as well as I do the defendant does not have to take the stand, and then that possibility is not there, is it, if none of the

defendants take the stand then that question wouldn't arise.

MR. BOITEL: Judge, there are a thousand ways in which a conflict of evidence can enter a trial --

THE COURT: In my own simple fashion --

MR. BOITEL: The question is whether there is any relation between myself and those who are underwriting this defense, other than the fact that they are paying for it.

THE COURT: Only you know that.

MR. BOITEL: Well, I am telling you what the story is, there is not.

THE COURT: I don't know that.

MR. BOITEL: Right.

THE COURT: You are telling me that.

MR. BOITEL: Exactly.

THE COURT: And as far as I am concerned, I am leaving you to your own determination, you know whether or not you should, don't you, and you said you wanted to withdraw on the basis of the finding that I made in her case, and which she nevertheless was willing to ignore and waive, and I was satisfied with it --

MR. BOITEL: If your Honor had said there is a possibility of conflict and any possibility is waived by my client, fine, but I understood your Honor to have made a finding that there was a conflict, that was the terminology, true --

THE COURT: And strictly based upon the possibility, strictly upon the possibility because in my questioning of her -- and you cannot assume that she would not take the stand or that anybody else would not take the stand -- I have to take the assumption that anyone or all could take the stand and if that happened that possibility could occur and it would be embarrassing.

MR. BOITEL: Right, any possibility can happen in a trial, all I am concerned is with a finding that there is a conflict, and if there is a conflict then I shouldn't be in the case. If there is a possibility of a conflict, well, I know how to deal with a possibility, the possibility will never eventuate, as far as I am concerned, and I am sure she has no doubt that it would eventuate --

THE COURT: Do you want to submit it to the Bar Association for your own purposes.

MR. BOITEL: I will be happy to, I will be happy to.

THE COURT: Only as far as your standing is concerned, it has nothing to do with this, as far as that is concerned you will have to decide whether you want to stay or not, and as far as she is concerned I indicated that I would accept her waiver.

MR. BOITEL: Am I to understand there is no conflict, the conflict is withdrawn, that there is no conflict.

THE COURT: I found in her matter there is a possibility of waiver (sic) I so found, and I asked her if she would nevertheless waive her rights and she said she would.

MR. ACCETTA: Your Honor, you mean conflict of interest, conflict --

THE COURT: Yes, what did I say? I meant conflict of interest, prejudice --

MR. BOITEL: I am not trying to create problems here.

THE COURT: You are trying to be ethical.

I'm not going to go any further, if you want to withdraw you may, if you don't want to withdraw, well, make known what you are doing.

MR. BOITEL: Is your Honor finding there is a possibility of a conflict or that there is a conflict of interest.

THE COURT: I have made my finding, read the record.

MR. BOITEL: I believe you stated it both ways, that is why I am asking.

THE COURT: Yes, I said because I have to presuppose and assume facts which are not in evidence, you know that as well as anybody else does, but if you want to argue silly arguments I will be glad to, Mr. Boitel, -- are you going to put your defendant on the stand, yes or no?

You won't answer that and I don't blame you if you don't, and until I know that I can't do more than to assume that she would do that.

MR. BOITEL: Assuming she is going to take the stand --

THE COURT: What I say is assuming for purposes of this that she is going to take the stand, you have to assume that for purposes of this discussion, and that is what I did, I assume it for the purpose of my finding, and I am not going to now quibble about what I said, I think the record

is very clear on the point, based upon the colloquy I had with your client I feel that a possibility exists very strongly, Mr. Boitel, that there could be a conflict of interest and possible prejudice to your client, and I made a finding to that effect, and I asked your client in spite of that, she still could retain you if she wished and she said that she would and she would make a knowing and voluntary waiver of any such claim, and I accepted that of her.

Then you chose to say, If I make such a finding, and that is the finding I made, if I made such a finding you withdraw.

I can't stop you, I can't stop you, but I would like to know before Friday of this week if you withdraw.

If he withdraws, Mrs. Behar, I will call you in and I will appoint counsel for you.

MR. BOITEL: Thank you.

THE COURT: Okay, okay.

(At this point other matters dealing with Mr. Brodsky's client were discussed.)

(Following discussion of these other matters, the Court again spoke to Mr. Boitel as follows.)

(continued on next page)

THE COURT: Twelve o'clock, it is twelve o'clock tomorrow, and, Mr. Breitel, I think you can find your answer by twelve o'clock tomorrow, too.

MR. BREITEL: Your Honor, I am waiting on the minutes, the minutes on this will be ready tomorrow, the reporter advises me.

THE COURT: What stops you from going to whom you want to at the Bar Association and discussing it?

MR. BREITEL: I think it would be self-serving for me to describe the situation in my own words, the minutes ought to speak for themselves.

THE COURT: He can give them to you tomorrow morning.

MR. BREITEL: I would do the best i can, but --

THE COURT: Mr. Karr can have those minutes tomorrow, early.

As you know, I am taking a little time off, I finished the trial on Friday and I won't be available in August, and if this case is to go, well, if the defense of this lady is

going to change hands, then you had better give the new lawyer a chance, or you are going to foul up everything in this case, because there are a lot of cases after this 587, that are being held for the reason that they shall follow in sequence, and that was the understanding by all counsel, including you, Mr. Breitel, that 587 would go first.

MR. BREITEL: Well, I am not sure, I am not sure what that has to do with the problem that we are currently facing.

THE COURT: That means that no lawyer is going to be able overnight to prepare a defense for a client in a case of this nature, I think just from the voluminousness of it, all alone, that would indicate that they are going to have to have a lot of preparation, and I assume that from the bill of particulars that I saw here, which is no small package, that has to be gone into, that requires a great deal of investigation, how do you do that in a week?

(At this point, Mr. Brodsky discussed matters germane to his case.)

* * * * * * *

PROCEEDINGS OF JULY 25, 1973

[Conflict of Interest Hearing Continued]

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA,

Plaintiff,

- against - 72 CR 597

HARRY BERNSTEIN, ET. AL.,

Defendant.

----------X

United States Courthouse
Brooklyn, New York

July 25, 1973
12:00 p.m.

B e f o r e :

HON. ANTHONY J. TRAVIA, U. S. D. J.

ILENE GINSBERG
ACTING OFFICIAL COURT REPORTER

A P P E A R A N C E S :

ROBERT A. MORSE, U.S. ATTORNEY

BY: ANTHONY ACCAMPA, AUSA
RONALD DE PETRIS, AUSA
GEORGE DASHIAN, AUSA

ABE BROUSKY, ESQ.
Attorney for defendants:
Harry Bernstein
Eastern Service Corp.
Patricia Buckley and
Emanuel Hirsch

HENRY J. BOITEL, ESQ.
Attorney for defendant Florence Behar

THE CLERK: Criminal Hearing, U.S.A. v. Harry Bernstein, et. al.

THE COURT: Mr. Brodsky, I think we should proceed with that part of your matter so we complete that and then go back to Mr. Boitel's matter.

MR. BOITEL: Your Honor, I wonder if I might ask you to take me first. I have a personal matter which has nothing to do with this and I'd like -- it's rather urgent.

THE COURT: Any objection, Mr. Brodsky?

MR. BRODSKY: No.

THE COURT: All right.

MR. BOITEL: Thank you.

THE COURT: With regard to your matter, Mr. Boitel, I indicated yesterday that I thought that from the testimony of Mrs. Behar, that I felt there was a conflict and that I thought the matter ought to be resolved to the extent that she should obtain other counsel, in view of the fact that it appears, from the record, that you, Mr. Boitel, were being paid -- if I can use that word -- by the defendants, Bernstein, I assume and the corporation, Eastern

Service.

MR. BOITEL: Correct.

THE COURT: I thought that that presented a very serious problem. I certainly feel that Mrs. Behar could be -- on the assumption of the facts that I discussed with her by way of a colloquy -- that she could at some point be prejudiced and I take it that the statement indicated to you that I thought there would be a problem with you as a lawyer under our canons of ethics and I have made it my business to review the most recent copy of the Code of Professional Responsibility and Canons of Judicial Ethics issued in pamphlet form by the American Bar Association, which I am sure you are fully cognizant of -- but if I may refer to just several excerpts from it, particularly Canon 5 of the Canons of Judicial Ethics and I refer to the ethical considerations under EC 5-14 entitled "Interest of Multiple Clients" and three following considerations under EC 5-15, 5-16 and 5-17.

5-14 indicates that maintaining the independence of professional judgment required of

a lawyer precludes his acceptance or consignation of employment that will adversely affect his judgment on behalf of our dilute his loyalty to a client.

This problem arises whenever a lawyer is asked to represent two or more clients whom have differing interests, whether such interests be conflicting, inconsistent, diverse or otherwise discordant.

Then -- I want to refer to 5-17 which indicates that typical occurring situations involving differing interests are those in which a lawyer is asked to represent different co-defendants in the same case.

We can all read the others without my reading them into the record.

Then, going back to -- I refer you to "Disciplinary Rules" -- DR -- which is Disciplinary Rule 5-10-5 entitled "Refusing Employment When the Interest of the Lawyer May Impair His Independent and Professional Judgment" and then it sets forth, particularly, (a), (b), (c) of that particular Rule.

Now, I don't want you for a moment to

feel that I think that you would do anything unethical.

MR. BOITEL: Yes, your Honor.

THE COUPT: I have a high regard for you but I believe that the situation may arise in view of the testimony that was obtained here under oath from your client to the effect that she has been with this company, the Eastern Service, a defendant, for, at least, I think she said sixteen years of its eighteen year existence, employed all that time with the Bernsteins who at least -- Mr. Bernstein who is, at least, one hundred per cent owner of that corporation and since they are paying your fee, I can easily assume the situation where you, as a lawyer, may find yourself in a difficult position.

You may say "Judge, I intend, under no circumstances to listen to the Bernsteins" but Mrs. Behar can, under those circumstances, regardless of what you say, indicate some displeasure should something occur and I just must make a finding here to the effect that that situation could impair your thinking insofar as this and I

don't mean that in a way that might be deemed to be illegal or anything of that nature.

MR. BOITEL: You are saying we are all human.

THE COURT: Yes, and I feel that under these circumstances I must continue in my finding that there is a conflict here and that she should obtain counsel other than you, even though I hate to say to you, you're out.

But, I believe she would have to, under these circumstances, obtain other counsel.

Now, you indicated that you don't believe that you would be violating any of the canons of ethics and I indicated to you that you could follow up on that, if you wished.

You indicated too, that if it becomes necessary you would cease from obtaining further sums from the Bernsteins and continue to represent her and in that event, you would be free to act independently and you wish to continue to appear for her and on that basis -- I indicated that I wouldn't -- and particularly so because you have been paid up until now --

MR. BOITEL: I have.

THE COURT: (continuing -- And if you coupled your offer that you would be glad to be received in that way, you would be divesting yourself of any interest in anybody other than this client.

Of course, a different situation may present itself insofar as whatever you may want to do in seeking the advice of the Bar Association --

MR. BOITEL: I have done so.

THE COURT: And?

MR. BOITEL: Even though we broke after five last night, I got to it and discovered there is a procedure which the Association of the Bar of the City of New York has set up on some sort of basis to get decisions, apparently in emergency cases such as this and I have, this morning, spoken with a member of the Ethics Committee of the Bar Association who is, I believe, presently a Dean at St. John's Law School, Joseph Bellacosa.

THE COURT: I don't know if he is the Dean. I think a fellow by the name of Murphy is.

MR. BOITEL: Well, I said a Dean. Schools have all kinds of Deans.

This is a letter I sent, hand delivered to him. I don't know that it has gotten there yet but it was sort of timed to fit in with his break from class. I have only one copy.

THE COURT: You proposed this to him for his answer?

MR. BOITEL: In substance it states, Dear Mr. Bellacosa, as you note from the enclosed transcript of July 24, 1973, I represent Florence Behar, a defendant in a multi-count, multi-defendant prosecution perding in the United States District Court, Eastern District of New York.

I go on to state that the trial is scheduled to commence on October 1, 1973 and I explain that I have represented Mrs. Behar since the institution of the proceedings, more than a year ago and that the indictment in question contains over two hundred counts and that it relates to alleged fradulent practices and bribery with respect to F.H.A. mortgage applications.

I state that my client is employed by Eastern Service Corporation, a mortgage brokerage

and processing firm and I explain that although normally, a vice president of the firm, it is my understanding that Mrs. Behar's denomination as such was to permit her to execute numerous documents coming through the firm and I further state that also indicted are the president and proprietor of the corporation, Harry Bernstein, his wife Rose Bernstein and Pat Buckley, each represented by Mr. Abe Brodsky as well as a number of other defendants who are named in the indictment but who would not appear relevant to the question I present.

I go on to explain that prior to my dealings in the matter I had no contact with any of the defendants and that Mrs. Behar was referred to me by Mr. Brodsky.

I think it would be appropriate for me to permit the minutes of July 24 to tell you the remainder of the circumstances since the District Judge requested immediate determination as to whether I can remain in the case or not.

1: Would it be appropriate for me to continue to represent Mrs. Behar under the circumstances as outlined to the Court;

2: In view of the rather extraordinary expected length of the trial so indicated it may continue to six months, Mrs. Behar advises me her resources would not permit her to retain a private attorney.

If the answer is that I should not continue to represent her under the arrangement, can I represent her without voluntarily rendering my services. I may note I cannot. If there was any way I could do so I would.

If there is any further information you need to resolve t he matter, please feel free to call me.

THE COURT: He is a member of what committee of what Bar Association?

MR. BOITEL: I understand the Association of the Bar of the City of New York.

THE COURT: Are you on the C.J.A. panel?

MR. BOITEL: I am on the panel of the United States Court of Appeals of the 2nd Circuit, not on the C.J.A. panel -- unless I applied for admission --

THE COURT: Which is a question you might pose to them also but I couldn't appoint you if

I wanted to but I humbly tell you that I see a very serious question here and not only for your client, whose interests I am duty bound to also represent and help but also to protect you.

I think your situation could lead to disciplinary action.

Now, whether it can or not, that is not for me to resolve, is it, and it is something you are going to have to do but I think then, you would have to assume your own responsibility there.

However, insofar as your client is concerned, I believe that should the events actually occur that even if you take the position that you took I don't think it qualifies you here and in view of the fact that your client is willing to give a voluntary waiver, I think it would be worthless and I think the Court of Appeals could very well say that the right of the defendant is far superior because I don't honestly believe that this lady, Mrs. Behar, is fully cognizant of the full meaning of the words "conflict of interest" and "assistance of counsel" because that is what the words are in

the statute but they have used the words "effective assistance of counsel" and all kinds of decisions have come down with regard to them but none of them indicate any real guidelines as to what a Court should do and I have to chart my own course in this case and I think this case is of such extreme importance, involving not only the liberty of a number of defendants and your ethical problems and Mr. Brodsky's ethical problem and the client's rights but in addition to that, it also involves the very rules of our court under the individual assignment system and I speak now particularly with regard to the fact that this case has been scheduled for trial and it has been scheduled for trial to start in October after there has been much preliminary work done by everybody and after a meeting by all lawyers and we all agreed -- naturally, not all wanted the same date -- but we all agreed that the best date for all to be ready and all to be going into a trial here, would be October 1 or 2, whatever date we agreed upon.

Now, should something occur that would delay

that, I don't know when next I am going to be able to get seventeen lawyers -- I don't know if that is the number but there's more than ten lawyers and more than ten defendants -- I believe seventeen defendants and eleven lawyers in the first case -- it is going to be difficult to get them together for another trial and for how long and we get involved with the balance of the rules regarding the next succeeding twelve cases.

If my addition is correct there are thirteen cases in total and there is no doubt that those succeeding twelve are related to the firstone, especially in view of the fact that three of the defendants are in all of them; the two Bernsteins and the Eastern Service Corporation.

MR. BOITEL: My client is in the first two.

THE COURT: Yes, but the Bernsteins and Eastern Service are in all thirteen and your client is involved in at least the first one, I know and it is going to then create a question for those remaining twelve under our prompt and speedy rule business.

So, it could create chaos to the entire structure of the court insofar as our rules are

concerned.

I value this as a serious matter that must be disposed of so there is no cry by anyone that there is not sufficient time to take care of matters that must be taken care of and yet be ready for trial on October first.

So, I am going to insist --

MR. BOITEL: May I make a suggestion ?

THE COURT: Go ahead.

MR. BOITEL: I am not being frivolous at all in suggesting this.

The problem for a person such as my client, who is really not a person of means but an employee, is that she has been indicted in a case that is calculated by the way the indictment is set up, to last for a long time.

THE COURT: Yes.

MR. BOITEL: The average individual -- I don't care if it is my client or the other people involved in the case -- could never afford an attorney to represent them in a case this long.

THE COURT: That is possible. I don't know her financial status. We haven't gone into that.

MR. BOITEL: I know that but common sense tells you that the average person on the street, even the average lawyer, whatever his income, could not retain a lawyer for a six month trial -- that is, a lawyer, in any event, that commands a decent fee.

THE COURT: That's why we have the C.J.A. Rule.

MR. BOITEL: But people in that situation are deprived of the free selection of counsel.

I know I have argued this before, but there was no reason for the indictments to be as long as they are.

If they are all convicted, are we sending them away for five hundred years? I doubt it.

If the Government has strong counts, why not sever those counts -- I'm sure Mrs. Behar -- and I talk off the top of my head --

THE COURT: That's not the question I am faced with now.

MR. BOITEL: I haven't discussed it with her, but if it were severed down for a normal two or three week trial, she could pay my fee and not rely on her employer to pay the fee.

I think it is unfair to my client to put her in an indictment such as this.

THE COURT: That was a problem you should have faced when you were first retained and even then, you would have come to me and I would have told you what I am telling you now.

MR. BOITEL: I made a motion for severance of counts.

THE COURT: That's not for severing yourself.

I don't care if there is one count or five hundred counts.

The issue that is a problem to the Court is your client and you. That is the same whether it is one count or one hundred counts. I don't care about that.

MR. BOITEL: My particular situation, regardless of its merit, is related to Mrs. Behar's situation.

She cannot have an attorney of her choice because she cannot afford one and no average citizen in this country could.

THE COURT: There is nothing that I know of and you can't refer me to any decision or law

that says if she cannot afford a lawyer the Court would have to appoint a lawyer for her and that she has the right to say to me "You have to appoint X, Y or Z." There are no such cases. There is no such law.

MR. BOITEL: Precisely.

THE COURT: The law is that I would then find a person that I can appoint from a list which we know is a C.J.A. panel list and whom I feel will properly defend her and I think that is as far as she can expect and as far as I can go.

MR. BOITEL: That's fine, but the practicalities of the matter are that there is not a lawyer in this courtroom who would play Russian Roulette like that for the selection of his own counsel and she is being made to do that.

THE COURT: I don't agree with that at all.

Once you tell me you cannot afford a lawyer and you want me to appoint a lawyer for you and in substance, that is what you are doing, I can appoint -- if it turns out I appointed a nincompoop I would listen to applications but I

won't appoint a nincompoop because everyone on the list is presumed to be a good lawyer or he wouldn't be on the list.

MR. BOITEL: I don't suggest that.

As I pointed out yesterday, I advised her of the right to have counsel appointed and never once may it appear that my remarks could be misconstrued that I am denigrating assigned counsel. I am not and never did to her, privately, publicly or any place else. This sort of conversation never took place between she and I as far as assigned counsel.

THE COURT: I am sure of that.

MR. BOITEL: This woman is pleading with me to stay on the case and if there is a question as to whether she understands "conflict of interests" if you put her on the stand, don't lead her, just ask her, I am confident she will be able to explain.

THE COURT: I will be glad to put her back on the stand but I am going to make a ruling --

MR. BOITEL: Yes --

THE COURT: (continuing) -- And then what I would like to do, if you feel that I am wrong,

I am willing to submit any question that you wish to submit to the Court of Appeals because I think that this case is of such extreme importance and you can go by way of mandamus or anything you think of -- I will sign such order.

Then, we can have the Court of Appeals decide the question and then our problems and our calendar congestion, our individual assignment rules, the problems involved here will be resolved.

Of course, you must understand, there are going to be thirteen other cases in which all the lawyers are going to be screaming about prompt trial rules and all you have to do is change that and you destroy the very basis of our individual assignment system rules and related actions because truly, these are related actions and I think the decision that I will make is momentous enough for the Court of Appeals and you to find some way to approach them and have them decide the issue now.

MR. BOITEL: I --

THE COURT: This way, there will be no hesitation and the Court of Appeals will decide it,

I'm sure, as soon as possible and if they say I am ridiculous, then I'm ridiculous. If not, you will just have to step out and I will have to appoint a lawyer for her if she cannot afford one, if I think she cannot afford one.

MR. BOITEL: I may be wrong but the Court of Appeals will only be sitting once or has sat already for July and will only sit one week in August, probably the third week.

I think that might place the situation in jeopardy --

THE COURT: I think if you approach the Court of Appeals on the question involved here -- you are getting excited, Mr. De Petris.

MR. DE PETRIS: Not excited. I was going to make a statement.

I think we would all agree that Mr. Boitel is so concerned about representing Mrs. Behar, if he was to return his retainer --

THE COURT: I said that at the start --

MR. DE PETRIS: (continuing) -- And then have Mrs. Behar pay him until she fits under the C.J.A. Rules, and then continued under the Rule and there would be no conflict of interest.

MR. BOITEL: Let's make one thing clear on the retainer business.

I have not received a retainer in payment for services to be rendered.

The only money I received so far, has been money for payment of services that have been rendered.

THE COURT: I would want you to divest yourself of that too.

First of all, I can't appoint you under the situation that has arisen.

MR. BOITEL: I thought you might be able to appoint me for a particular trial --

MR. DE PETRIS: You could apply for the list.

THE COURT: Yes, that could happen quickly, but even there, I question it, unless you could get a definitive ruling.

Now, I will put Mrs. Behar back on.

MR. BOITEL: Perhaps we could make a full record -- excuse me -- Mr. Brodsky wants to speak with me.

(pause)

THE COURT: You rest on the record?

MR. BOITEL: No sir, but there was nothing that came from the conversation.

THE COURT: All right.

Mrs. Behar, we will swear you in again.

F L O R E N C E B E H A R, having been previously duly sworn by the Clerk of the Court resumed the witness stand and further testified as follows:

THE COURT: Do you want to ask her anything?

MR. BOITEL: Yes.

DIRECT EXAMINATION

BY MR. BOITEL:

Q Mrs. Behar, do you believe that you understand what the term "conflict of interest" means?

A I believe I do.

Q Would you please explain to the Court your understanding of "conflict of interest" and if you wish, you can explain it in terms of this case which might be easier, but I suggest to you that you don't get involved in the facts of this case.

A I met Mr. Boitel sixteen months ago. He was referred to me by Mr. Brodsky.

I never felt that there was a conflict of interest in any of his actions. I felt that he had my well-being utmost

in his mind.

I feel Mr. Boitel is a man of complete integrity so far as I am concerned. That is my feeling, my true feeling and I feel I would be represented properly by him.

I am in a frightening position so far as I am concerned. I have never before been a defendant and this case has changed, certainly, my life and my husbands life and I would feel most comfortable if Mr. Boitel would continue to represent me.

This is a very -- as you pointed out and Mr. Boitel pointed out -- this is an involved case. If an attorney is appointed and we have about two months left -- it is so comprehensive, there is so much to digest, I don't know if it can be done to my comfort.

I may be wrong, but it is my own feeling. I am very frightened.

THE COURT: You are only interested in your case, aren't you?

THE WITNESS: Yes.

THE COURT: As to your own case, is it so involved and consuming that it would take a person a long, long time -- to use your word -- to digest it?

THE WITNESS: I don't know but I have

more than a hundred counts against me and from one watching the Watergate hearings, one count --

THE COURT: Don't tell me about Watergate. Thats a different bowl of fish.

THE WITNESS: I have no way of knowing what a hundred counts mean. I am told that it is quite a few counts.

THE COURT: Well, each of these counts, as you know, refers to a different piece of property. They are all the same, practically, but it involves a different piece of property.

Is that so difficult to comprehend?

THE WITNESS: Well, I think it is involved. I think an attorney has to understand the mortgage and real estate business.

THE COURT: We might be involved in the facts of this case now, when she starts talking about the mortgage business.

MR. BOITEL: Yes.

THE COURT: I would tell you to stop there.

Tell me yourself what you think the words "conflict of interest" mean.

THE WITNESS: Well, since Eastern Service

is paying Mr. Boitel's fee, one might feel that Mr. Boitel might owe Mr. Bernstein some allegiance.

Am I ridiculous in what I say?

THE COURT: Could that be a possibility?

THE WITNESS: I don't think so in this case.

THE COURT: Mr. Bernstein is involved in practically all the counts in this indictment and it is the same case.

Mrs. Bernstein is involved in practically all counts -- I don't know how many but a goodly number -- and Eastern Service is and the three are named also as defendants in some twelve other cases and you are named in another case, at least.

THE WITNESS: One.

That's what I say. There is quite a bit.

THE COURT: So, isn't there that feeling or that thought in your mind that if they -- certainly, their interest in their defense in this case is different from yours, is it not?

THE WITNESS: Yes sir.

THE COURT: It has to be and if the interests are different and Mr. Bernstein and/or the Eastern Service Corporation, or however it is, are paying your lawyer's fee --

THE WITNESS: Yes --

THE COURT: (continuing) -- Is it not a fact that a question may arise for the lawyer which would effect you?

Is that a fair statement?

THE WITNESS: It is a fair statement. However --

THE COURT: Well, if it is a fair statement and such a situation could occur, are you -- you know, you have a great deal at stake here.

THE WITNESS: I am willing to take that chance because of --

THE COURT: You are willing to take that chance?

THE WITNESS: I am willing to waive -- I am willing to sign a waiver, yes.

I feel Mr. Boitel is a man of integrity, I really do.

THE COURT: I have indicated that myself.

THE WITNESS: Yes, you have.

THE COURT: And I also want you to know that even though you are willing to make such a voluntary waiver, I still have to protect your rights as a Judge in this case because I have to sit on this case and there could -- I'm going to tell you now that there could come a time in the course of the prosecution of this case where I could see somebody being done in by a lawyer because he represents maybe more than one or two clients or because of his interest in the payment of a fee, etc., etc.

What do I do -- sit back and let that injustice happen? I won't. I tell you that now -- I won't.

That's the fear that I have in your behalf because under those circumstances, somebody has to stand up and talk for you.

So I make myself clear?

THE WITNESS: Yes, you do, sir.

THE COURT: I am just wondering, knowing

all this, you are willing to tell me now that you don't care what happens?

You are willing to waive all these rights now --tell me, yes or no -- is that what you are willing to do?

THE WITNESS: I am willing to sign a waiver because I know the type -- at least, I feel I know the type Mr. Boitel is.

In addition, he has been part of this case for sixteen months. The new attorney, whoever he might be, is an unknown factor to me. I know Mr. Boitel well and as I say, I am exceedingly frightened.

THE COURT: Why don't you retain Mr. Boitel on a retainer basis to whatever extent you can and let him give back the fee he received from the Bernsteins?

THE WITNESS: I can't say anything about the fee.

THE COURT: Yes. That's his problem.

It's his problem whether he can even do it without subjecting himself to the Bar Association.

THE WITNESS: I know nothing about that.

THE COURT: Well, you have to think of that too.

Now, you agree with me that the possibility could occur at any time, right, during the course of the trial and you'd even go so far as to say that I am supposed to be quiet and say nothing to protect you?

THE WITNESS: No sir.

THE COURT: You don't say that.

THE WITNESS: Not at a later date but I don't think it would happen.

THE COURT: That's what's bothering me.

If you give me a waiver it is for all time.

THE WITNESS: Yes, for all time.

THE COURT: But at a later date, if I see someone done in -- for instance, I think you are not being given the effective assistance -- let's use thatword -- for some reason that might come to my mind, do you want me to sit back and do nothing or lean over and tell you "You're in trouble lady"?

THE WITNESS: Yes.

THE COURT: Of course you would want

me to do it at that time.

You give me a complete and blanket consent waiver and I wouldn't do it because then you would be saying "I don't care what happens. They can send me to jail for a hundred years. That's okay. I will give away all the rights I have."

You are giving away a lot, aren't you?

THE WITNESS: Yes.

THE COURT: And you are willing to do that?

THE WITNESS: Well, we are talking about --

THE COURT: You have to do it -- Mrs. Behar, I want to be fair with you -- you have to do it so willingly that I must be satisfied and I don't mind telling you that it is going to take a lot for me to be satisfied under these circumstances because I feel for you and I feel you have a lot of rights and they must be protected.

As I indicated to Mr. Boitel, I don't think he would do anything illegal or unethical but that possibility arises and he has to square that with his own conscience when it comes to the

Bar Association.

But, so far as his representation of you is concerned, I am going to see that it doesn't happen, if I can help it because then I am equally responsible.

I am waiting, very patiently.

THE WITNESS: Again, may I say, your Honor -- I imagine you are waiting.

THE COURT: I want an unequivocal --

THE WITNESS: It is --

THE COURT: (continuing) -- And a voluntary --

THE WITNESS: Voluntarily --

THE COURT: (continuing) -- A knowing waiver.

THE WITNESS: A knowing waiver, yes sir.

THE COURT: Well, I nevertheless make a finding that there is a situation that could arise that could be detrimental to this lady and I don't believe she, even though she is so willing, I feel she is so willing because she is in a financial bind and I feel that much of her decision is based upon that fact and I don't think she really comprehends the nature of the

importance of awaiver, to the extent, that, should it occur -- and I hope it doesn't -- that you should be found guilty and you are sent to prison -- you know that is a horrible thought --

THE WITNESS: It sure is. It keeps me awake nights.

THE COURT: It should and I don't like to send people to prison but the thought of sending somebody away is a terrible thought to live with and I can well understand how you get second thoughts when you are sitting in a cooler -- not a Judge, because a Judge feels he is duty bound to maintain his oath, do his job and do it honestly and fairly and you live with that because you feel you have done your duty. But you would be there and I am sure you would be feeling all the time that you were there wrongfully or any other way you want, but you'd be sitting in prison and you have no right to come back and say "I was denied effective assistance of counsel because I didn't realize when I gave that waiver, I was giving away all these rights and

therefore I want my case renewed or whatever application might be made" and I think under those circumstances there could be such a situation where the Court might feel that your waiver was not given with any understanding and with a true understanding, anyway.

I feel that on that basis, that such a situation does exist and I just cannot allow it to continue and if Mrs. Behar cannot retain counsel of her own choosing and be able to pay or him, then application must be made to the Court and I will have to appoint counsel for her.

Now, Mr. Boitel, I trust that you will take exception to my ruling or object to it or whatever you want to do and I would encourage an appeal in some fashion to bring the question to the Court of Appeals immediately for it to be resolved.

Now, do you have anything to say, Mr. Government attorneys?

MR. ACCETTA: The only question that comes to mind is that I am not quite clear of the specificity of the ruling. I am not sure whether you are honoring Mr. Boitel's

voluntary withdrawal --

THE COURT: No, I am not -- honoring his, what?

MR. ACCETTA: Voluntary withdrawal in the case, if you find a conflict of interest.

THE COURT: I already made a finding to the effect that I find there is a conflict of interest and I asked her to retain other counsel.

MR. ACCETTA: Are you honoring Mr. Boitel's withdrawal or do you direct him to be removed from the case?

THE COURT: I am directing her to get new counsel -- oh, his voluntary withdrawal.

No, it is being done on my order because I believe Mr. Boitel's continuance will create an ethical problem for him and the conflict issue for Mrs. Behar.

MR. ACCETTA: Thank you.

MR. BASHIAN: Getting back to what Mr. De Petris was speaking of before, if Mr. Boitel -- let me say it this way -- is there any legal impediment to Mr. Boitel returning what fees have been paid to him by Mrs. Bernstein and the

Eastern Service Corporation?

THE COURT: I indicated that to Mr. Boitel. I think I made that clear that if by chance he is retained, I would still insist that he return whatever fee he has received from the Bernsteins and then he would indicate to me that he is now independently retained by this lady and even then, I want her to tell me that 'In spite of what happened, I know my lawyer will be independent and interested only in me and I take his word for it and waive whatever might have occurred between the time and he was retained and now."

I would like him not only to divest himself of whatever tie there might be by the retainer that has been paid -- and on that basis I would take the waiver plus Mr. Boitel's statement that he no longer has any tie -- but in addition, I don't know what he has learned from the Bernsteins or Eastern Service that might in any way effect his proper representation of this lady. I don't know if that would be -- except that he was not retained as counsel by them so there is no confidentiality between

client and attorney there --

MR. ACCETTA: The only question would be is if his relationship was anything other than the fact that he was a recipient of certain funds.

THE COURT: I think Mr. Boitel could then answer that question himself. But, that doesn't present itself now.

MR. ACCETTA: No.

THE COURT: I am making a finding that she should retain other counsel.

MR. ACCETTA. And you are directing that --

THE COURT: I am directing that Mr. Boitel cease and desist from further representation.

What do you want?

MR. DE PETRIS: As I understand it, the direction is that he should cease and desist from receiving payment from the Bernsteins, not that he should cease and desist from representing Mrs. Behar.

THE COURT: I think I am making myself clear.

I have indicated that I think a conflict of interest is present and on that basis she should retain new counsel. Whether she wants to retain Mr. Boitel is between her and Mr. Boitel and I said that even then, I would raise the question unless Mr. Boitel would divest himself of whatever he has received from the Bernsteins and returned it to them and completely disassociate himself from anything, in my mind, as far as how that conflict may arise and then he could make that statement to the Court, plus her waiver at that time.

Right now, I am telling her to get a new lawyer.

MR. BOITEL: I don't want to clutter the record more than it has to be, but I think something about this business about returning past fees -- to put it in perspective --

THE COURT: Well, Mr. Boitel, that is not a question to be thought of now. I said, later on.

MR. BOITEL: Perhaps your Honor might modify his viewpoint on that and I will tell you why.

Back in the beginning of these proceedings, I think your Honor had expressed a desire that counsel, insofar as the motion phase of this case was concerned, motions for discovery and all that business, that counsel cooperate together and your Honor not end up with a whole pile of papers and you will recall that there were a few counsel who did exactly what your Honor asked and they included, for example, myself and Mr. Brodsky.

Well, the fact of the matter is, I bore the weight, as you may have guessed from that day that we argued motions, of preparing those motions.

Now, we are talking about objective things, not what happened on a certain date.

I think we ought to make the record clear that over these past fourteen months --

THE COURT: I am willing to add that you might have borne the weight of the proceedings at the Court of Appeals.

MR. BOITEL: Precisely.

Now, we are talking about her with respect to a question of law, not as to facts,

or the Bernsteins talking to me as a client or Mrs. Behar talking to Mr. Brodsky as a client.

Your Honor, that was work that I did and they benefited from it. My client benefited from it. To put the cap on it, I am not in a position to do almost a year and a half of work and return a fee for it.

THE COURT: You don't have to if you step out. You have earned it and I think you have earned it ten times over. But, the purpose of the original suggestion by me, that you refer to, must be put in the proper light.

I didn't want forty motions at forty different times which would delay further the proper proceeding of the case and I asked the lawyers to get together and make them all returnable on one day. I didn't tell you to do the work for "X" number of lawyers. You and Mr. Brodsky got together on that. You have that right.

I only asked that these motions be brought together so we wouldn't have a multiplicity

of motions regarding the same requests and at different times because that would take another two years to dispose of and in spite of that, you recall, that some ten or twelve or more didn't heed the advice and asked for written decisions and time and leave to renew their motions and things of that nature.

MR. BOITEL: In that respect I think your Honor has noted that we have been dilligent.

THE COURT: I say nothing to the contrary. I just wanted to put that in the proper perspective. I don't want it to appear that the Bernsteins were paying you for any particular service. They are paying you for your representation. If you assume unto yourself, the additional burden of carrying a load, then you sue Abe Brodsky for a piece of his fee. But, you are not going to get that piece of the fee from Mr. Bernstein. That's the point I am trying to raise here. Clear?

You're objecting to my decision. Okay. Objection is noted and your exception is noted.

MR. BASHIAN: I don't understand. It seems to me that things are the opposite of

yesterday. Yesterday he was asking to be removed.

THE COURT: I removed him right now.

MR. BASHIAN: So what is he going to object to?

THE COURT: He is objecting to the removal.

MR. BASHIAN: He asked for that yesterday.

THE COURT: Do you want it on the record that you are removing yourself?

MR. BOITEL: I said yesterday that if the Court found as fact, that there existed a conflict with respect to the possibility of conflict, then I could not stay in the case.

If there is a conflict between me and my client, I certainly could not stay in the case. If your Honor's ruling is solely a potential of conflict, I feel that exists with any attorney and certainly any one attorney representing two defendants and I'm sure that is the case even in this courthouse. Any time that happens, there is a potentional of conflict or if a parent pays for a child's or a child pays

for a parent's legal fee, there is a potential conflict -- potentiality of conflict,-- excuse me.

That's what I envisioned here. I satisfied myself and certainly would not be in the case unless I was certain in my own mind that such a conflict would never come to fruition with me and I saw to it, the best I could, that my client exercised independent judgment to that issue as well.

MR. BASHIAN: As I recall, yesterday your Honor questioned Mrs. Behar, at least as to whether or not she understood what "conflict" was.

Your Honor put pointed, exact questions to her, received answers and informally made a finding where you indicated that you were satisified with her answers.

Then, Mr. Boitel directed a specific question to the Court --

THE COURT: Yes --

MR. BASHIAN: (continuing) -- He said, "Your Honor, you haven't stated whether or not you find a conflict between my client and the

other defendants as you did in the other case. Did you make such a finding here?" And in truth and in fact, you had not stated that and your Honor ten said "Yes. I find the same conflict, Mr. Boitel."

Then, Mr. Boitel said, "If that's the case, I think I am duty bound as an attorney, under the Canon of Ethics, to be excused because I don't practice law that way."

THE COURT: He used the word, "withdraw."

(continued on next page)

MR. BASHIAN: I don't understand the appellate issue.

THE COURT: We re-opened today and I made the same finding.

I find that there is a conflict and I am asking her to get a new lawyer, although Mr. Boitel did not now say he withdraws.

MR. BASHIAN: Perhaps, the Court today, went one step further and indicated you would require Mrs. Behar to get a new attorney and perhaps today the Court didn't accept the waiver.

I think today the Court indicated -- I am just trying to straighten it out for myself. I am not trying to put wo[illegible] into the Court's mouth.

Your Honor today indicated that you were not satisfied that she is waiving her rights and I don't think you accepted the waiver -- yesterday you accepted the waiver and today you haven't.

THE COURT: I'm one of those people who feels I can change my mind and my mind is changed to the point that I will not accept

her waiver because I don't think she has a full, thorough understanding of the questions involved here and I think as a result of that the conflict exists and on that basis I asked her to get herself a new lawyer.

MR. BASHIAN: Please do not think I am in any way criticizing the Court.

THE COURT: What I just said, would that make it a final determination?

MR. BASHIAN: Yes sir.

I am not criticizing the fact that the Court decided to change the ruling on the waiver. I am just setting these things forth for my own sake.

THE COURT: Make them as straight as you want.

What else?

MR. BASHIAN: It seems we are in a position where you have directed the withdrawal of Mr. Boitel from the case.

THE COURT: No. I have posed to him the ethical problem that he must face and it is up to him. I assumed that his position would still be the same.

MR. BASHIAN: You have instructed Mrs. Behar that she can no longer retain Mr. Boitel. Under the current circumstances you will not allow Mr. Boitel to appear as attorney of record under the current financial arrangement. You have requested his withdrawal under those financial arrangements, which, by the way, Mr. Boitel sought yesterday. But, you have not forbid Mrs. Behar from retaining any counsel she wishes. She may even go to Mr Boitel and say "Independently, I want to retain you."

Am I correct?

THE COURT: Yes.

MR. BASHIAN: So, you have not told her "You cannot have this man for your lawyer" and therefore, she cannot go on appeal and say "I am deprived of the right to have an attorney of my choice" because your ruling didn't go that far and wisely so.

THE COURT: For this proceeding he is still the attorney for Mrs. Behar.

MR. BASHIAN: The effect of your ruling is he must withdraw under the present

financial situation which he said he wanted to do voluntarily, yesterday.

THE COURT: What do you think I ought to do? You tell me what you suggest. Do you want me to keep him here when I think there is a conflict of interests?

MR. BASHIAN: I'm not saying --

MR. DE PETRIS: What is the appellate issue for appeal?

MR. BASHIAN: There is no appeallate issue.

Your Honor has not forbid Mrs. Behar from retaining Mr. Boitel. She cannot go up and say "I can't get counsel of my own choice."

I think maybe we are looking at it from the wrong end of the street.

MR. BOITEL: If I may interject, it is my opinion that the Court is trying to create an appellate issue and Mr. Bashian, being the good lawyer that he is, is trying not to.

THE COURT: I am trying to create an appellate issue and I think the issue here,

so far as this proceeding is concerned -- I asked Mr. Boitel if he had objection and he said, "yes."

MR. BOITEL: On behalf of my client I object.

MR. DE PETRIS: What did he object to?

THE COURT: My ruling.

I made a ruling that there is a conflict here and I won't accept her waiver and I expect her to get another lawyer.

The lawyer here, now representing her has a right to object to what I do.

MR. BASHIAN: The refusal to accept a waiver?

THE COURT: It is all one decision.

However, if you want three decisions, I will give you that too.

I said that I would not accept the waiver on the basis of what I indicated, that she is not in full understanding -- whatever that amounts to -- secondly, she has to get a new lawyer -- well, that's only two. What else do you want in there to create the issue?

MR. BASHIAN: I agree with you -- with your factual determination.

I agree there is a conflict. I do not oppose your Honor's finding absence of voluntary knowing waiver.

THE COURT: Do you want me to tell Mr. Boitel to continue?

MR. BASHIAN: No sir. I just don't understand. We are going to Foley Square.

I agree with your determination.

THE COURT: You don't think she has the right to go and appeal that she has been denied; that her lawyer whom she wants to retain, she cannot retain and I refuse the waiver -- you don't think she has the right to appeal?

MR. BOITEL: I think the Judge is saying that may be illusory in view of the financial situation.

Anyone has a right to retain any lawyer --

MR. ACCETTA: Point one, was the Court correct in forbidding Mrs. Behar to be represented by Mr. Boitel --

THE COURT: Look, as far as I am concerned, I recognize him as her lawyer throughout the proceeding. So far, I have not thrown him out of the proceeding.

I do say, that from now on, she should get a new lawyer.

MR. ACCETTA: From this day forward except for this appeal, Mr. Boitel cannot represent Mrs. Behar.

THE COURT: That's why I asked if he objected to my decision. He has a right to appeal on the basis of my decision.

MR. ACCETTA: I agree with you.

THE COURT: Doesn't it make sense?

MR. ACCETTA: Yes.

THE COURT: That's what I am creating the issue on.

MR. ACCETTA: If Mr. Boitel doesn't appeal from your decision, Mrs. Behar is required to retain new counsel; correct?

THE COURT: Yes.

Mr. Boitel isn't left off the hook. He said if I made that finding he would withdraw -- and I don't think you are going to

withdraw that statement.

MR. BOITEL: If there is a conflict of interest or a finding of conflict of interest I professionally could not proceed.

I think what happened is that yesterday, when your Honor found a conflict, I said --

THE COURT: "On that basis, I withdraw."

MR. BOITEL: I would not be permitted to proceed and your Honor today reached the same conclusion.

MR. ACCETTA: Yes, but it is a question of how it was arrived at.

As I asked before, is Mr. Boitel voluntarily withdrawing because of your finding of conflict of interest and is he acknowledging that or is he voluntarily withdrawing because of your statement and order, that Mrs. Behar cannot have him.

THE COURT: There is no change of opinion on my part.

I made a finding yesterday and I heard more testimony and today I conclude

that I won't accept the waiver.

So, my decision has not changed at all and I don't believe Mr. Boitel's statement has changed.

MR. ACCETTA: We are at the point where the findings are the same as yesterday and after the findings comes the order.

Does your order say "I permit Mr. Boitel" --

THE COURT: You weren't listening to me.

If I am going to sign that --

MR. ACCETTA: (continuing) -- Or, "I hereby direct Mr. Boitel to withdraw"?

THE COURT: I will let him stay in until the question of appeal is decided.

MR. BOITEL: He is not talking about that.

MR. ACCETTA: If he voluntarily withdraws because of your finding of conflict of interest --

THE COURT: He said that and he is not withdrawing.

MR. ACCETTA: Well then , the Court of

Appeals won't hear that.

If you are finding there is a conflict of interest and in addition, Mr. Boitel is not withdrawing voluntarily, but because you are directing to him withdraw and you will not permit him to continue to represent Mrs. Behar under the financial arrangements existing, then he can appeal right now.

If you are saying, "Mr. Boitel, I accept your statement that you are out" that's one thing.

If your Honor says "You are out" that's still another thing.

THE COURT: I think my ruling in this case is very clear and I don't think it necessitates any explanation.

Now, I offered to Mr. Boitel the opportunity to go up by any means he sees fit, mandamus or otherwise. That's going to be his job, not mine nor yours.

MR. BASHIAN: The only anomaly --

MR. BOITEL: I don't think there is a crystalized issue.

THE COURT: You want to create a

crystalized issue.

MR. BASHIAN: He is going to be appealing from your ruling and that ruling enforces him to do what he felt duty bound to do yesterday.

THE COURT: As far as I am concerned he has withdrawn on the basis of my opinion.

Somebody is going to appeal.

You want to do it that way?

MR. ACCETTA: What I really want to know is this: Are you saying --

THE COURT: Just a minute.

Mr. Boitel, I want to create the issue. I think you understand what I have done here.

MR. BOITEL: Yesterday, when we left here I had understood that you had found a conflict and I said that under the findings of conflict I had no choice but to withdraw and then we got into a discussion of the matter and the question of presenting the issue to the Bar Association came up and I thought that if we got a determination from the Bar Association that in fact there was not an ethical conflict here based on the facts adduced, then

I could proceed. But then, if they found a conflict, I would withdraw.

THE COURT: I think I prefaced my remarks to that with 'that's your problem."

MR. BOITEL: Yes. That is how we left it.

THE COURT: My decision then was -- and not depending on what you did thereafter -- My decision was that there was a conflict and you withdrew and ifyou didn't like it you could go to the Bar Association and see if you were correct and you would probably attack whatever decision I made because the only problem here is your problem. That is so far as yesterday is concerned.

MR. BOITEL: I will be frank with you. At this point it is My client's problem.

THE COURT: It is.

MR. BOITEL: The only reason I was going to submit it to the Bar Association is because I knew what she wanted. She told me. She broke down crying outside.

Based on what I knew she wanted I figured rather than do a disservice I should

submit it to the Bar Association and see if I am right.

THE COURT: On the basis of the finding I made today what do you do? Do you withdraw? Answer that specific question for the record.

I made a very specific finding and in fact, I edit to my finding of yesterday wherein I found a conflict and I won't accept the waiver and now I ask you --

MR. BOITEL: I thought --

THE COURT: Answer my question. I want to stop this bickering. It's adding garbage to a record that is clear.

MR. BOITEL: Yesterday I was going to submit it to the Bar to get a determination --

THE COURT: Mr. Boitel, I re-opened the matter today. I put Mrs. Behar on the stand again, questioned her again and made a new finding.

MR. BOITEL: The matter was on for tomorrow and I got a call to come here. That's why I have no decision from the Bar Association.

THE COURT: I know that because that is something you can do anyway but I am making

this finding and I ask you now, do you take the same position you did yesterday? Do you withdraw or no?

MR. BOITEL: I take the positior that if the Bar Association says it is proper for me to stay in, I will stay in.

THE COURT: The Bar Association isn't going to run my court nor make my decisions.

MR. BOITEL: I cannot in good conscience take a position without a determination from the Bar Association which I expect late today or tormorrow.

What can I do for my client?

THE COURT: Why were you so quick to withdraw yesterday when I made that finding? What has changed so monumentally, to you?

MR. BOITEL: Your Honor made a finding and the path seemed clear until I realized -- what am I doing to this woman? I am making a determination proper to me, possibly, at her constitutional expense.

THE COURT: The court made her decision at your expense because I felt such a proper situation exists.

MR. BOITEL: It wasn't at my expense.

THE COURT: If you don't like it, you are going to lose that fee --

MR. BOITEL: I couldn't care less about the fee --

THE COURT: (continuing) -- And it is the Court's own judgment that this lady's rights must be protected.

MR. BOITEL: If the only issue was the fee I would have walked out of the case immediately, yesterday. That's not the issue here. I guarantee it.

THE COURT: The Court made a finding as to her rights.

Now, I command of you an answer. What do you want? You don't like my decision --

MR. BOITEL: My judgment is that on a finding of conflict I must withdraw.

THE COURT: I made such a finding today and I add to it that I won't accept her waiver.

MR. BOITEL: Your Honor won't permit me to get a response from the Bar Association?

THE COURT: I told you yesterday that what you do with them affects you personally

as a lawyer but that so far as this Court is concerned, I am protecting this lady's rights and I don't think she should continue with you.

MR. BOITEL: Yesterday your position was that I need not withdraw.

THE COURT: Yesterday I found a conflict and you voluntarily withdrew so there was no encumbrance on me -- you know, I just can't understand why you have changed your mind. Is the decision today more unclear?

MR. BOITEL: When your Honor found conflict I felt clearly, that is what I should do.

Then I said, why should you make the determination. I could submit it to the Bar Association.

THE COURT: You didn't ask the Court to withdraw the gratuitous and precipitous remarks you made.

MR. BOITEL: I read the minutes this morning. I don't know if the minutes are here. I don't know if they are here. Are they?

Your Honor stated specifically that the decision on withdrawal was held in abeyance and I was given two days.

I didn't think I could accomplish it but I think I can get a determination in two days.

Then, this morning, in the middle of trying to set this up --

THE COURT: Assuming the so-called Bar Association says it wouldn't be a conflict on your part to continue to represent her, does that reverse my decision as to my findings that I believe there is a conflict and I won't accept her waiver?

(continued on next page)

MR. BOITEL: You didn't do that yesterday. This is a new decision today.

THE COURT: What decision?

I am asking you something right now. I am just asking you right now -- assuming that you get an approval from the Bar Association that you can continue to represent her, does that reverse my ruling insofar as my ruling is concerned?

MR. BOITEL: Your finding today is that you don't accept the waiver.

THE COURT: No. I found there is a conflict, but also, the fact that I won't accept the waiver because I don't think there is a full understanding.

MR. BOITEL: So, it is in addition to what you said yesterday.

THE COURT: No. It is more broad because we re-opened today.

MR. BOITEL: My understanding of the law is, if you don't accept the waiver, then it doesn't matter if I am withdrawing or not withdrawing. She cannot -- provided she cannot waive -- if she cannot waive, she has to get

other counsel.

THE COURT: If she cannot waive don't you have rights as her attorney to take this up, to question my decision?

MR. BOITEL: Yes. She has a right in the first instance -- I will discuss it with her.

MR. BASHIAN: Now, Judge, we are back to this point -- and I might say, your questioning of Mr. Boitel is in proper perspective --

THE COURT: I think he has already withdrawn. I don't think that has changed.

MR. BASHIAN: But your order was carefully worded and properly worded, I think, so you did not forbid her from going out and retaining Mr. Boitel as counsel.

THE COURT: I can't tell her who to retain.

MR. BASHIAN: What is she going to the Court of Appeals on? You haven't forbid her from retaining Mr. Boitel on her own.

She can't say "Judge Travia forbid me from getting counsel of my choice." That's not the effect of your ruling. You didn't

include that prohibition.

Mr. Boitel has intimated, if not flatly stated that he may now go to the Court of Appeals insofar as his client's rights are concerned.

Since he presumably will withdraw on his own, settle his ethical problems between himself and the Bar Association and since Mrs. Behar has not been forbidden from retaining him as her own counsel, what will go to the Court of Appeals? That is the question.

THE COURT: I ask you then. I don't know what you want in what order --

MR. BOITEL: He is saying there is not an appellate issue.

THE COURT: I am not saying that there is. I want you to find some way of doing it. I am not unmindful of that. I am trying to create the issue if one can be created.

Now, what do you want me to do?

MR. DE PETRIS: Get the desirable answer from Mr. Boitel.

THE COURT: I asked him the question

and as far as I am concerned he has refused to answer. Correct?

MR. BOITEL: No.

I have told you my personal feelings, that I should withdraw in the presence of a finding of conflict.

If this was some time ago it would be different but now I feel an obligation on behalf of my client to get more learned advice.

MR. ACCETTA: The answer to this question must go into this record.

Does Mr. Boitel perceive a real or potential conflict of interest in his situation?

I think the answer to that question must be given.

MR. BOITEL: I believe I answered.

THE COURT: I think so.

MR. ACCETTA: He said he would never do anything --

THE COURT: He stated that the potential of a conflict exists --

MR. BOITEL: In practically any situation.

MR. ACCETTA: I want to pin it down to this situation.

MR. BOITEL: Certainly, including this one.

MR. ACCETTA: I think it is of crucial importance.

MR. BOITEL: I think the way this arose ought to be noted and would illustrate what Mr. Accetta is trying to bring out.

Back in Westbury when we were there to set a date for trial or motions, Mr. Accetta called to my attention the fact there was something on a tape in which one of the Bernsteins said -- I guess it was Mr. Bernstein -- I don't recall at the moment -- it was said that he was paying fees for certain Eastern employees, not mentioning who the attorneys were or anything. I'm not sure as I think back because it has been some time. I don't know if I had received the tape or read it or what happened at the time, but this was a day that your Honor advised Mr. Brodsky and perhaps certain others that they should return to court on some date in the future and execute waivers and when we came out, Mr. Accetta said to me, "You know, this thing" --

THE COURT: What has this got to do with anything we are presently concerned with, Mr. Boitel? We are cluttering the record.

MR. BOITEL: To make the record complete on the point --

THE COURT: What point?

MR. BOITEL: I am coming to it.

THE COURT: Please, let's get to it.

MR. BOITEL: How we got here --

THE COURT: By the original indictment.

MR. BOITEL: Mr. Accetta asked me, "Have you seen the tape or heard it? Do you think there is a problem?"

I replied, "Perhaps my client should come down as well, when Mr. Brodsky's clients come down."

He said, "Fine. Good idea. I'll tell you when it is."

The next time I heard about it was Monday of this week when I learned a letter went out to Mr. Brodsky on Friday. That was the first notice I had as to this proceeding. The first notice I had was Monday of this week when he called me, Mr. Accetta called me and

asked "Do you want to do as you said you would?"

THE COURT: How is that different from the facts brought out yesterday?

MR. ACCETTA: There is no question that Mr. Boitel was aware that there was a potential problem and he had taken steps because he was aware of the problem.

THE COURT: I think he is still aware.

I am going to ask you once more -- can you answer the question -- you know, as a lawyer, you would make the person answer and if he didn't you would object on the ground that he didn't answer the question. Well, I am asking you a question as a lawyer and don't duck it. I don't expect you to duck it.

On the basis of my decision today, which is that a conflict exists and that in spite of her asking the Court, the Court refuses to accept her waiver because of the reasons I gave and that therefore I feel she should get another lawyer, now I ask you, what is your position? Do you want to stay in the case or not?

MR. BOITEL: My position is, that on a

finding of waiver --

MR. DE PETRIS: On a finding of --

MR. BOITEL: Let me finish the sentence, please.

On a finding of waiver I withdraw.

However --

MR. DE PETRIS: Finding of conflict.

MR. BOITEL: On a finding of conflict I withdraw subject to the following: That if I get a report from the Bar Association --

THE COURT: That's where I want you to stop. The Bar Association isn't going to run my decisions or make my decisions subject to it.

I am making a finding. You either withdraw or don't withdraw and then you have all kinds of rights thereafter.

MR. BOITEL: That's why I want to finish the sentence.

If the Bar says they do not see a conflict here or it is appropriate for me to stay in the case, I would then make application to your Honor to permit me to continue or re-continue to represent Mrs. Behar.

THE COURT: Okay. But I won't change it now. So far as I am concerned, you are withdrawing.

MR. BOITEL: I have no choice.

THE COURT: What do you mean by that?

MR. BOITEL: I have no ethical choice.

THE COURT: And you are voluntarily saying you have no ethical choice but to withdraw.

Can we leave the record that way? I don't want "ifs, ands" and "buts".

MR. BOITEL: The record will speak for itself.

THE COURT: No.

MR. BOITEL: If your Honor says, and you have, that there is a conflict of interest, I cannot stay.

If the Bar tells me that they don't see a conflict of interest, then I am making application to your Honor and ask for leave to let me re-continue representing her.

THE COURT: Mrs. Behar, your attorney has withdrawn.

THE WITNESS: Yes.

THE COURT: I ask you to retain counsel to represent you.

If you cannot, I ask you to come back by Friday of this week and ask for appointment of counsel.

THE WITNESS: Yes.

MR. BOITEL: May I make a suggestion?

THE COURT: No more applications.

MR. BOITEL: May I make a suggestion as a friend of the Court?

THE COURT: You may.

MR. BOITEL: Tentatively, perhaps, may I continue to represent her for a few days? She may get another attorney -- so there's no hiatus. Your Honor is going away --

THE COURT: I'll give up my vacation for this thing. Don't worry about it.

Mrs. Behar, Friday, at twelve o'clock, if you haven't retained a new attorney, walk right in here and I'll be here and appoint new counsel for you.

MR. BOITEL: I thought perhaps your Honor could assign counsel today.

THE COURT: I'll be her lawyer for

two days. Nothing will happen to her for two days.

If I appoint an attorney it is to represent her completely.

If any problems arise, you come and talk to me and I'll summon all the lawyers here so there is no question as to what your problem is.

In the meantime, get yourself a new lawyer and if you cannot afford one, you will come back here at twelve o'clock on Friday and you will get a new lawyer.

Mr. Boitel has withdrawn as your lawyer.

MR. BOITEL: Am I excused?

THE COURT: Certainly.

(continued on next page)

PROCEEDINGS OF JULY 27, 1973

[Appointment of Counsel for Florence Behar under the Criminal Justice Act]

C 267

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.
DEC 18 1974
TIME A.M.....
P.M.....

----------X

UNITED STATES OF AMERICA,

Plaintiff,

- against -

72 CR 587

FLORENCE BEHAR, PATRICIA BUCKLEY, MANUEL CARPIO,

Defendants.

----------X

United States Courthouse
Brooklyn, New York

July 27, 1973
12:00 P.M.

B e f o r e :

HON: ANTHONY J. TRAVIA, U. S. D. J.

ILENE GINSBERG
ACTING OFFICIAL COURT REPORTER

I hereby certify that the foregoing is a true and accurate transcript from my stenographic notes in this proceeding.

Ilene Ginsberg

Official Court Reporter
U. S. District Court

A P P E A R A N C E S :

ROBERT A. MORSE, U.S. ATTORNEY

BY: ANTHONY ACCETTA, AUSA
RONALD DE PETRIS, AUSA

ALAN I. GREENE, ESQ.
Attorney for defendant Carpio

Also present:
Florence Behar and
Patricia Buckley

THE CLERK: Criminal cause for all purposes, U.S.A. v. Florence Behar, Patricia Buckley and Manuel Carpio.

THE COURT: Are we ready here?

Let's take you first, Mr. Greene and Mr. Carpio.

THE COURT: Now Mr. Greene, I raised a question with you the other day when you were here concerning a statement that Mr. Carpio had made to me, not in your presence, to the effect that he had paid you five hundred dollars and I asked you to straighten that out.

MR. GREENE: I spoke to Mr. Carpio and I think he understands now.

He said he thought someone else gave me the money. He never personally gave it to me.

THE COURT: Don't you know who you gave five hundred dollars to?

DEFENDANT CARPIO: Mr. Quintana had seven hundred dollars --

THE COURT: Wonderful. You had three lawyers; Mr. Newman, Mr. Greene and now,

THE COURT: Mrs. Behar, you say you earn eight hundred a month?

DEFENDANT BEHAR: Yes.

THE COURT: And your husband earns a thousand dollars a month?

DEFENDANT BEHAR: Yes.

THE COURT: Do you own any property between you?

DEFENDANT BEHAR: No.

THE COURT: The Chevrolet -- two cars but no house.

DEFENDANT BEHAR: No.

THE COURT: But you have eighteen hundred dollars a month?

DEFENDANT BEHAR: There are extenuating circumstances.

These are cancelled checks (indicating) for doctor bills and drug bills amounting to over five thousand dollars for 1972.

My husband is not well. He recently took tests and they found some sort of discoloration on the photograph, either a discoloration of the photograph or some sort of cancer. That type of cancer runs in the family.

It is in the family.

We have a five thousand dollar V.A. policy. My husband was in the Navy during the second World War. I made a loan of two thousand dollars in case he requires surgery.

He works on a day-to-day basis. He is very sick.

THE COURT: I am just trying to say to you that ordinarily, under our law, we appoint lawyers but to people who cannot afford a lawyer and even though you have these problems your income is of sufficient amount for you to make some arrangements for a lawyer.

DEFENDANT BEHAR: But I have to cover these problems.

THE COURT: I am not insensitive to what you say. I understand you have these problems.

DEFENDANT BEHAR: My son is also a sick person. I do support him. As you see, I have him down. He has a condition known as arteritis, inflamation of the arteries of the head.

THE COURT: He is married?

DEFENDANT BEHAR: No.

THE COURT: He is not?

DEFENDANT BEHAR: No.

THE COURT: Robert Behar?

DEFENDANT BEHAR: Right.

THE COURT: You crossed out "married."

DEFENDANT BEHAR: Did I? I'm sorry. I guess I was nervous.

THE COURT: He is single?

DEFENDANT BEHAR: Yes.

THE COURT: I saw "married."

How old is he?

DEFENDANT BEHAR: Thirty.

THE COURT: Does he work?

DEFENDANT BEHAR: A little free-lance writing and last year he made not very much on that. I do support him, though.

THE COURT: What do you consider "not very much"?

What you consider your problems to be and your earnings, what they are, I am sure you have bank accounts --

DEFENDANT BEHAR: I don't have a bank account. It is in trust for my son.

THE COURT: You have control of it?

DEFENDANT BEHAR: Yes.

THE COURT: I won't ask you what you have.

DEFENDANT BEHAR: It is my son's account. My father knew he was sick and in 1966 he left money for my son.

THE COURT: Between you and your husband, you don't have a bank account? How do you live, from day-to-day?

DEFENDANT BEHAR: He may require cancer surgery, my husband.

THE COURT: I know, but you don't know that. You cannot make that diagnosis. Right now he is earning money.

DEFENDANT BEHAR: Actually, the doctors told him not to work.

He also has a mild heart condition, emphysema, colitis, several ruptured discs and I have the doctor bills here.

THE COURT: On the basis of the application I would have to tell you that you have to make every effort to retain your own lawyer and you realize I am sure, that this is

not the usual run of problems. You are in a real serious problem.

You may be innocent, and I assume you are and you eventually will be proven innocent but until then, you have a big headache, more of a headache than you think you have.

This is a serious indictment.

I don't know how many counts you are charged with.

DEFENDANT BEHAR: Over a hundred.

THE COURT: You could go to jail for more than a hundred years too.

DEFENDANT BEHAR: That's right.

THE COURT: So, if there is anything -- you have to do something about trying to defend yourself.

DEFENDANT BEHAR: I understand the case may last six months. I'm on two indictments. I'm doubling that, so, that's a year.

THE COURT: No. The other case may not take that long.

DEFENDANT BEHAR: But I am involved in two.

For a six month period, to pay an attorney and meet with him daily -- there are two months left. I have worked with an attorney for sixteen months.

THE COURT: And you didn't pay for it so it didn't to day, cost you a dime.

Now, you have to start worrying and if I were you, I would worry.

DEFENDANT BEHAR: I am worried as is my husband.

THE COURT: You have the right under the law to defend yourself.

DEFENDANT BEHAR: I couldn't possibly do that. I have never been in a courtroom before. I truly cannot afford a lawyer though.

THE COURT: I am not inclined to be that sure.

If I got this from anyone else, I'd say "Get your own lawyer."

DEFENDANT BEHAR: It depends on bills, the health of your family --

THE COURT: Well, I am going to appoint a lawyer for you on the same basis, strictly a temporary basis and his name is Richard

Rosenkrantz, 66 Court Street.

MR. ACCETTA: Your Honor, may I comment on that.

Simply for the Court's information, Mr. Rosenkrantz is now actively representing an individual --

THE COURT: I know. I talked to him and he doesn't think it would present a conflict.

MR. ACCETTA: Just for the attention of the Court.

THE COURT: I spoke to him and he doesn't think it will create a conflict but he'll look into it and since he is appointed on this interim basis, we'll have an opportunity to dispose of it.

MR. DE PETRIS: It sounds remote from the Government's point of view but we thought we'd mention it.

THE COURT: Yes, and of course, I wanted to discuss -- I mean, a case like this, taken on Government pay, taking six months, is liable to bankrupt the lawyer more than Mrs. Behar.

You call him. If he is not there, there

is somebody in the office who can talk to you, I'm sure.

DEFENDANT BEHAR: Will someone give me the name and address?

THE COURT: Yes, Mr. Giusti will give you the name and address and you may leave.

MR. ACCETTA: Is there any point in setting a time limit in finding out the answers to these questions?

THE COURT: Yes. I am going to talk to you about that.

* * * *

AMENDMENTS TO GOVERNMENT'S BILL OF PARTICULARS

[The Government's Bill of Particulars appears at B. 692 - 884]

EJB:RFD:mc
F.#723,050

C 279

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - X

UNITED STATES OF AMERICA

- against -

HARRY BERNSTEIN, ET AL.,

Defendants.

AMENDMENTS TO GOVERNMENT'S BILL OF PARTICULARS

Crim. No. 72 CR 587

- - - - - - - - - - - - - - - - - - X

I. Count 7

1. Delete paragraph "2".

II. Count 11

1. Delete paragraphs "2" and "3".

2. Add new paragraph as follows:

2. Subsequent to the preparation and mailing of the credit report dated October 30, 1968, Dun & Bradstreet obtained information indicating that the subject did not desire to purchase the house, that the subject had given false information concerning his purported self-employment and income, and that Eastern Service Corporation had obtained a fraudulent financial statement concerning the subject's purported self-employment and income. Dun & Bradstreet did not rescind its prior report, nor did it issue a substitute report containing the new information, nor did it advise the Federal Housing Administration of such information.

III. Count 15

1. Delete paragraph "3".

2. Add new paragraph as follows:

3. Subject was not self-employed on a part-time basis doing dress alterations.

IV. Count 17

1. Delete paragraph "4" under document (1).

V. Count 19

1. Delete subdivisions B and D of paragraph "2"; substitute "length of employment".

2. Delete paragraph "4".

VI. Count 23

1. Delete paragraph "5".

VII. Count 25

1. Delete the first sentence of paragraph "3", substituting as follows:

Subject was not self-employed as a car repairman.

VIII. Count 29

1. Delete paragraph "4".

2. Add new paragraph as follows:

4. Subject did not work for Gregory Meat Wholesale (sic).

IX. Counts 84 and 85

1. Delete paragraphs "2" and "3".

2. Add new paragraphs as follows:

2. Approximate time of bribe:

2:30 P.M.

3. Place of payment:

In a car parked at 292 16th Street.

X. Counts 97 and 98

1. Delete paragraph "1".

2. Add new paragraph as follows:

1. Approximate date of bribe:

October 28 or 29, 1968

XI. Counts 101 and 102

1. Delete paragraphs "1" and "3".

2. Add new paragraphs as follows:

1. Approximate date of bribe:

July 8, 1969

3. Place of payment:

In front of house at property.

XII. Counts 198 and 199

1. Delete paragraph "6".

2. Add new paragraph as follows:

Person who physically handed over money:

Harry Bernstein

Dated: Brooklyn, New York
October 12, 1973

ROBERT A. MORSE
United States Attorney
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

By: _____
Ronald F. DePetris
Assistant U.S. Attorney

C 282

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----------x

UNITED STATES OF AMERICA

-against-

HARRY BERNSTEIN, et al.,

Defendants.

----------x

AFFIDAVIT OF MAILING

72 CR 587

STATE OF NEW YORK
COUNTY OF KINGS
EASTERN DISTRICT OF NEW YORK, SS.:

Sally Reese, being duly sworn, says that on the 12th day of October 1973, I deposited in Mail Chute Drop for mailing, in the United States Courthouse, Cadman Plaza East, Borough of Brooklyn, County of Kings, City and State of New York, AMENDMENTS TO GOVERNMENT'S BILL OF PARTICULARS, of which the annexed is a true copy, contained in a securely enclosed postpaid wrapper, directed to the attorneys named in attached SCHEDULE "A", at the addresses stated therein.

Sally Reese

Sworn to before me this
12th day of October, 1973.

JUANITA MAYO
Notary Public, State of New York
No. 24-4501911
Qualified in Kings County
Commission Expires March 30, 1975

SCHEDULE "A"

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986-6688

SCHEDULE "A" (continued)

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COURT'S CHARGE TO JURY AND

PROCEEDINGS THROUGH TO VERDICT

C 287

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA, :

-against- :

HARRY BERNSTEIN, ROSE BERNSTEIN, : 72-CR-587
EASTERN SERVICE CORPORATION,
HERBERT CRONIN, FLORENCE BEHAR, :
DUN & BRADSTREET, ARTHUR PRESCOTT,
MELVIN CARDONA, JOSEPH JANKOWITZ,:

Defendants. :

----------x

United States Courthouse
Brooklyn, New York

June 13, 1974
10:00 o'clock a.m.

B e f o r e:

HONORABLE ANTHONY J. TRAVIA, U.S.D.J.

and a Jury

WINFRED D. LEWIS
OFFICIAL COURT REPORTER

THE COURT: And I'm talking particularly to those in the rear of the room, past the counsel table.

Okay, bring the jury in.

(Jury in.)

THE COURT: Good morning, ladies and gentlemen of the jury.

I'm sorry for the delay in starting, but a little housecleaning before we get going, different little problems that arise. And we are about ready for the last stage of this procedure, namely the charge of the jury, after which the case will be in your hands for your deliberation.

Before going into my charge I want to add a few words first by me and express to each and every one of you my sincere gratitude for your most attentive work throughout the entire course of this protracted trial. It has been a protracted trial. Many things have occurred which caused recesses, but we really have been together since October of last year, and if my memory serves me right, we began jury impanelment on October 15th, so that we are just about -- and today being June 13th, we are just about at the close of eight months.

And during the course of such a protracted trial of course much testimony is adduced, and you are required of course to keep every bit of it in your mind so that it did require upon you a little more than the usual amount of work and cooperation that is expected of the ordinary jury, which may serve in a shorter trial, much shorter trial, a matter of days or a matter of weeks or even a matter of a month or two, so that we have experienced a lot together, both the Court, the jury and the lawyers on both sides, and it's really heart-warming to me to be able to say to you that I'm very thankful to you for that type of co-operation and attentiveness.

It really has been wonderful, and you must be commended for it. We know that jury service is a duty of every citizen, but I always like to refer to it as a privilege, because it really is a privilege, especially, as I indicated yesterday when I released Mr. Galliano, the alternate, that I believe -- and I firmly believe -- in our system of government. With all its little fallts, it still is the greatest country in the world bar none, and no place on the face of this earth do we individuals have the rights and privileges -- and I

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stress that word privileges -- as we enjoy every day, without even realizing for a moment the importance of such privileges.

We read a lot. They kick the devils out of whomever they want to kick the devils out of, but that is thefoundation of our form of government, that type of freedom.

Where else in the world do you find these things going on? No place. So that when I say to you it's a privilege to serve on a jury, it is, especially in this Court, and I'm not talking about this Courtroom, I'm talking about the United States District Court. It is the most exaulted judicial tribunal in the world, and we should all be proud to participate in its work, and you have done that in a yoeman's fashion because of the length of time that you have served, the amount of energy that you have given, the cooperation that you have given. And I don't know how -- and I'm sure I speak for everybody here -- to say more than the word thanks, which to me expresses everything that that word thanks may want to express to anybody who wishes to use that word, with all its ramifications and everything else.

So that I start out first by saying thanks

to you. C 291

Secondly I want to commend all the lawyers -- and I'm not going to pick any of them out, I'm talking about the government lawyers and the defense lawyers. You've been listening to good lawyers, and I'm very proud that they were part of this case, to appear before me as a Judge in their respective capacities as lawyers. They all are good lawyers, they have done a good job for their respective clients, and sometimes in the cross-fire I may express a little quick temper against the lawyers or vice versa. That has nothing to do with this case. That's strictly trial techniques, trial work, the right of counsel to fight to the end to do everything he has to do to properly prosecute or to properly defend. And I doff my hat to all those lawyers.

And please don't take out on any party on either side, or any individual party, anything that may have stemmed from or resulted from any cross words that may have passed between the Court andany particular lawyer. That's between the lawyer and the Court, it has nothing to do with anything, it's not evidence; you still are going to be charged with the duty of finding each

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particular defendant, if you believe the allegations of the government, guilty or not guilty, but guilty if you so find beyond a reasonable doubt, and that applies to every charge, to every element of the charge as I will be giving it to you, and as to each defendant separately, and as to each count separately.

I will go into that more as we go along, but for the time being that's your duty, and any side remarks or any cross words that may have been said, that has nothing to do with that particular person. So keep that in mind.

Now, additionally I just wanted to say to the lawyers that I am very happy to have them before me, and I trust that with the help of the good Lord we'll all be able to come back and face each other soon in any other kind of a case. They are always welcome in my part, and it's a pleasure to work with them.

Now, I have a job, and if I can find the right envelope I'm going to start that job. Now, it's going to be quite a lengthy charge, and I'm sure that that is not unexpected by you, because we have, as I said, gone through a protracted trial, which will require on my part going into

the law in the case a little more thoroughly. I will have a number of categories to discuss, the laws involved are going to be repeated throughout the trial, so that I may sound repetitious at times, but all of that will be necessary, as you will learn before the charge is over, so that if I'm long, please have patience with me, because this is a very, very important case to each and every one concerned, and I would exhort you to pay very strict attention and to try to absorb my entire charge, because it will become important to you.

And of course I will also be telling you later on that if after you begin your deliberations -- if you recall that possibly any part of the testimony has to be reread or any exhibit has to be reseen, or even if any part of my charge has to be read to you if you don't quite remember it, I shall be glad to do so.

(Continued on next page.)

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Charge of the Court

THE COURT: So we start off first by saying to you, if I can put my hands on it again, that we have been trying a case which I told you at the very outset, back in October, is entitled, because of the chronology that has to be followed through, the United States of America against Harry Bernstein, Rose Bernstein, also known as Rose Shorenstein, Eastern Service Corporation, Dun & Bradstreet,Inc., Herbert Cronin, Florence Behar, Frank Fey, Arthur Prescott, Ortrud Kapraki, Melvin Cardona, Patricia Buckley, Edward Goodwin, Joseph Jankowitz, Frank Dreis, Greville Harvey, Rose Cohen, Joseph Monte, Irving Figowitz, Ralph Gonias, Harold Keller, Manuel Carpio, Douglas Hollenbach and Richard E. Bell, defendants.

(Continued next page.)

Now, of course, for the purpose of this trial you wouldn't be concerned with all 23, because if you followed me, I named 23 defendants.

For the purpose of this trial you will be concerned with the nine defendants on trial, and I will come to that in a few moments.

At the outset, let me say that during my charge, particularly while reading count one of the indictment, you will hear me refer to 23 named defendants, and one Roy Schiller, who is named as a co-conspirator but not named as a defendant. However, there are, as I just indicated a moment ago, only nine defendants here on trial. The reason is that the case against six of the mentioned defendants, Frank Fey, Ortrud Kapraki, Edward Goodwin, Frank Dreis, Rose Cohen and Richard Bell -- the case against those six was disposed of by pleas of guilty, and I will talk to you about that later on in my charge.

The case against Patricia Buckley was disposed of by her plea of nolo contendre. I think you have heard about those two words recently. And the defendant, Mr. Douglas Hollenbach, unfortunately passed away.

And then for the purposes of making this a more manageable and a more orderly trial with less people involved six defendants, remember Greville Harvey, Joseph Monte, Irwin Figowitz, Ralph Gonias, Ralph Keller and Manuel Carpio were severed from this trial to be tried later. That left the nine for the purpose of this trial. And the nine, as you know, are on trial here today and have been: Harry Bernstein, Rose Bernstein, also known as Rose Shorenstein, Eastern Service Corporation, Dun & Bradstreet, Inc., Herbert Cronin, Florence Behar, Arthur Prescott, Melvin Cardona and Joseph Jankowitz.

I believe those are -- if I didn't miss any, I think those are the nine.

Now, you have heard the evidence in the case and the arguments of counsel, and now you must receive the instructions on the law that govern the case. You the Jurors, are the sold judges of the facts. You must, however, follow the law as given to you in these instructions and apply it to the facts as you find them from the evidence before you.

You heard me say that a number of times

throughout this trial. Because you are not free, nor am I, to substitute our private judgments as to what the law should be for what the law in fact is.

Now, these instructions, as I indicated to you, will be necessarily length and will touch on quite a number of different topics, so therefore, I tell you at this early stage, do not take any one instruction stating the law to the exclusion of others. Rather consider the instructions as a whole.

Now, you have been sworn as jurors well and truly to try this case and to render a true verdict. You must therefore exclude from your deliberations all bias and prejudice. You must not permit yourselves to be governed by sympathy or any other consideration not founded in the evidence and these instructions on the law.

The punishment provided by the law for the offenses charged in the indictment is a matter exclusively within the province of the Court, and should not be considered by you in any way in arriving at your verdict as to the guilt or innocence of each defendant.

Now, the issues of fact to be tried in this case are those made by the indictment and the pleas of each of the defendants of not guilty. So therefore you start your consideration of the evidence with the presumption that the indictment is not the evidence. It is merely a charge, and the Government must by competent legal evidence, adduced to you, prove beyond a reasonable doubt each essential element of the crime charged. And if it fails to do so, you must acquit the defendant of that charge, and this rule applies to each charge and to each defendant.

Now, the law presumes a defendant to be innocent of crime. Thus the defendants on trial in this case, although accused, begin the trial with a clean slate, with no evidence against any of them, and the law permits nothing but legal evidence presented before you to be considered in support of any charge or charges against the accused.

Now, that presumption of innocence alone is sufficient to acquit a defendant unless you are satisfied beyond a reasonable doubt of the

defendants' guilt after careful and impartial consideration of all the evidence in the case. And the presumption of innocence accompanies a defendant throughout the trial.

And here, again, this rule applies to each defendant. You must not allow the fact that two of the defendants are corporations to influence your verdict in any way, because a corporation is entitled to the same presumption of innocence as is an individual. You treat them all the same.

Now, getting down to some of the words that I used that I think ought to be defined, I used the word reasonable doubt. Now the word reasonable doubt practically define themselves.

A reasonable doubt is a doubt based upon reason and common sense, the kind of doubt that would make a reasonable person hesitate to act. Now, a reasonable doubt does not mean a doubt arbitrarily and capriciously asserted by a juror because of his or her reluctance to perform an unpleasant task. Nor does it mean a doubt arising from the national sympathy which we all have for others.

Proof beyond a reasonable doubt is proof of

such a character that you would be able to rely and act upon it unhestitatingly in the most important of your own personal affairs.

Now, I think that deserves a little more clarification: Proof beyond a reasonable doubt is not proof to an absolute certainty, because few things in life can be so proved. But the jury, you, will remember as well that a defendant is not and is never to be convicted upon mere suspicion or conjectur. Proof beyond a reasonable doubt does not mean that each bit of the Government's evidence must be found by you to be true beyond a reasonable doubt. It means, rather, that in the sum total the Government's evidence must satisfy you beyond a reasonable doubt as to each element of the crime charged, or you must acquit.

For instance, proof need not establish with exact certainty the exact date of the alleged crime. It is sufficient if the evidence in the case establishes beyond a reasonable doubt that the offense was committed on a dat reasonably near the alleged -- near the alleged date. Here the indictment as I will read it to you later, and you will foolow that, charges, "On or about or on or about and between

certain days," so that that is the reason why I indicated to you just a few moments ago that it is sufficient if the evidence in the case establishes beyond a reasonable doubt that the offense was committed on a date reasonably near the alleged date.

Now, of course the burden is always upon the prosecution to prove guilt beyond reasonable doubt. This burden never shifts to a defendant. The law never imposes upon a defendant in a criminal case the burden or the duty of calling any witnesses or producing any evidence. If, at the end of the case, youconclude that the evidence has overcome the presumption of innocence beyond a reasonable doubt, then you must find the defendant guilty. And this rule applies to each defendant and on each charge.

Now the next words that I think should be defined, and which I used already, is evidence, and I have already gone into that a number of times with you during the course of this trial, but it is important, and I am going to tell you now: Evidence is what the witnesses have told you on their oaths, what the exhibits received in evidence

contain and what counsel have agreed upon and stipulated to in your presence.

Now there were stipulations entered into, many documents were offered into evidence. They are all available and they are to be considered by you in determining the facts when you begin to deliberate.

Now, each of the exhibits which were received in evidence during the course of the trial, as I indicated, will be here in the Courtroom, and will be available to you for your examination. You are entitled to see any or all of these exhibits at any time during your deliberation. But I am going to suggest -- but you can overrule me on this one -- I am going to suggest that you begin your deliberations and then if it would be helpful to you, you may ask for all or any of the exhibits simply by sending me a note through one of the marshals, who will be sitting at the back of your door, and he will bring it to me and I will immediately respond to you. There are some papers, as I will indicate a little later, that I will give you as soon as you go into deliberate, and not wait until you ask for them, because they will involve

a part of the trial that I believe you will be dealing with almost immediately, and I would like you to have those papers as soon as possible. And I will talk about them in a moment or two.

(Continued on the next page.)

Now, as to stipulations that were entered into by both sides, some of them were in writing, some of them were agreed to orally, and as to stipulations, unless you will be otherwise instructed by me in the course of this charge, you are to accept them as evidence and regard that fact as proving only what it says in that stipulation. Arguments that you may have heard as to what those stipulations mean or any other argument, that is for you to determine what the facts may be.

But if there was something stipulated to, that stipulated fact you accept as a fact as proved.

Now, additionally, during the course of the trial there were introduced maybe two -- but there was introduced a chart and also a summary of certain things that were received in evidence for the purpose of explaining facts disclosed by books or by records and other documents which are in evidence in this case.

Now, if such chart or summaries do not correctly reflect facts or figures shown by the evidence in the case, you should and you may disregard those charts and summaries because it is your determination of the facts as you will be able to find them from the books, records or whatever they are in evidence which you will

have available to you that will preponderate and not what the chart may say if you think that the chart does not correctly reflect the facts as you found them.

I will refer to one of such charts later on in my charge as I go along because it becomes explanatory of a point that I wish to make then.

In other words, such charts or summaries are used only as a matter of convenience. So if and to the extent that you find that they are not in truth summaries of facts or figures shown by the evidence in the case, you should disregard them.

Now, the Court also during the course of the trial took judicial notice of certain sections of the law, certain events which I am sure you will remember, and of certain other facts. Now, you may accept the Court's declaration insofar as those parts where I took judicial notice of such a thing, you may take that as evidence and regard as proof the fact or event which has been judicially noted. But you are not required to do so since you are the judges of the facts. If I did take judicial notice of a particular section of the law, that is the law. You can't disregard that because I will be reading that. That is something you can't disregard. I am talking about -- particularly about

events or other situations that the Court took judicial notice of, particularly a date of a particular holiday that I took judicial notice of, and you can take that as a fact. But you can dismiss it, too, if you want insofar as your consideration is concerned because you are the judges of the facts.

Now, anything you have heard or seen outside the courtroom is not evidence and must be entirely disregarded. And you have heard me say that to you so many times in the course of my admonitions.

Now, statements and arguments of counsel, answers stricken from the record, implications or assumptions contained in questions that were excluded, none of that is evidence.

The evidence includes, of course, what is brought out on cross-examination as well as what is testified to on direct examination. And your verdict must be based on the evidence. But in your consideration of the evidence you are not limited to the bare words of the witnesses and the bald facts that you find have been proven.

The evidence includes inferences and presumptions. Inferences are deductions or conclusions which reason and common sense leads you the jury to

draw from facts which have been established by the evidence in the case. And a presumption is a rule of law which permits a jury to find the existence of a fact from proof of another fact.

Now, there are two types of evidence which you may lawfully find that a fact has been proved. One is direct evidence, such as the testimony of an eyewitness to his observation of the fact to be proved. The other is circumstantial evidence, the proof of facts and circumstances which rationally imply the existence or non-existence of other facts because such other facts usually and reasonably follow according to the common experience of mankind.

Now, as a general rule the law makes no distinction between direct and circumstantial evidence. If the evidence as here in this case is in part indirect and circumstantial, then you apply to it that evidence along with all the other evidence the same standards of proof. That is, it must taken with the other evidence satisfy you of the defendant's guilt beyond a reasonable doubt or you must acquit. And this rule again also applies to each defendant.

Now, where the facts or the circumstances proved are susceptible of two inferences, one pointing to

innocence and the other pointing to guilt, you must adopt the inference pointing to innocence and acquit a defendant. Unless the inference of guilt appears to you to be the inference that preponderates beyond a reasonable doubt. Then, of course, you find the person or the particular defendant guilty.

This rule, too, applies to each defendant. And as we go along I will again repeat that.

Now then, we come to the expression that I have used so many times, the credibility and weight of evidence.

Am I going too fast. I am trying to beat down my own usual pace. But if you find that I am going too fast, don't hesitate to raise your hands and I will stop. Because I want each section of this charge to be understood and I hope I can make it clear enough. I will try.

Now, credibility and weight of evidence: Now, you are the sole judges of the credibility of the witnesses and the weight their testimony deserves. You observe the appearance and the manner of the witnesses as they testified, their general conduct on the witness stand and their apparent candor or lack of it.

You may consider these matters in weighing the

credibility of the witness.

Consider the character of the testimony of the witness, whether the testimony contains inconsistencies or discrepancies within itself, and whether it is intrinsically credible or seems to you in whole or in part improbable.

Ask yourselves whether each witness through his own observations or participation had the opportunity to learn and did learn what he was questioned about while he was on the stand.

Consider the quality of his memory as exhibited to you here and his ability to relate his recollections to you.

The motives and state of mind of the witnesses as they appear to you and the circumstances and inducements under which that particular witness may have testified to are to be taken into account. Consider any relation each witness may bear to either side of the case and the manner in which the verdict might affect him.

The evidence of a witness whose self-interest or attitude is shown to be such as might tend to prompt unfavorable testimony to either side should be considered with caution and weighed with care.

Now, under our law a defendant has a constitutional right to remain silent if he chooses and no inference unfavorable to such a defendant could be drawn from the fact if he so chose.

In this case Mr. Harry Bernstein, Mrs. Rose Bernstein, Mrs. Florence Behar, Mr. Arthur Prescott, Mr. Melvin Cardona and Mr. Joseph Jankowitz chose not to testify.

However, the Eastern Service Corporation, Dun & Bradstreet, Incorporated, and Herbert Cronin chose to testify.

Eastern Service Corporation testified through a witness, Mr. Roger Fred.

Dun & Bradstreet, Incorporated testified through a number of witnesses: Mr. Harold Redding, Mr. Hamilton Mitchell, Mr. James McDowell, Mr. John E. Swazeline, Mr. Donald Dean, Mr. Charles Naulet and Mr. Leslie Sparrow.

Mr. Herbert Cronin chose to testify in his own behalf.

Now, they are competent witnesses. Their testimony should not be disbelieved merely because they are defendants or testifying on behalf of named defendants.

However, in weighing their testimony you may consider the fact that these defendants have a vital interest in the outcome of this trial.

Now, you have heard the use of the word "accomplice" as we went along. And I want to tell you and I charge you at this time that an accomplice is one who voluntarily participates in and joins another in the commission of or the planning of a crime voluntarily and with common purpose.

An accomplice does not become incompetent as a witness because of his or her participation in the criminal acts charged. The law does not prohibit the use of accomplices. And whether you approve of their use is not to enter into your consideration of this case.

In certain types of crime the Government of necessary is frequently compelled to rely upon the testimony of accomplices, informers, or persons with criminal records. Otherwise, it would be difficult to detect or prosecute some wrongdoers. And this is particularly true in conspiracy cases. Often, the Government has no choice in the matter.

It must take the witnesses to the transactions as they are. And there is no requirement in the

Federal Court that the testimony of an accomplice be corroborated. A conviction may rest upon the uncorroborated testimony of such a witness if it is found credible and reliable.

However, the testimony of such a witness should be viewed with very great caution and scrutinized very carefully in your consideration of that individual's testimony.

I charge you that all of the Government witnesses other than -- I can't talk about Mr. Hipps or Mr. Saunders, but I charge you that all of the Government witnesses other than Mr. Hipps, Mr. Von Saunders, Rita Azzarella, Martin Hardiman, Milton J. Francis and George L. McCann -- you may have forgotten that name. I will get to it later -- all the Government witnesses except those that I have just mentioned are either co-conspirators or at a minimum accomplices to the offenses charged in the indictment.

Now, the fact that some of the accomplices admit acts of criminal conduct and other moral dereliction should be scrutinized carefully and considered carefully by you as bearing upon the credibility of each of those witnesses. Whereas here we must remember that we have had certain witnesses who admitted a lot of

things. You consider that. And you must consider it very carefully when you talk about the credibility of that particular witness.

Now, whereas here a defendant has offered evidence of good general reputation for truthfulness or honesty or integrity or as a law-abiding citizen, you should consider such evidence along with the other evidence in the case.

Evidence that before accused of crimes a defendant bore a good reputation for relevant traits of character may give rise to a reasonable doubt where you might not otherwise entertain such a doubt since you may think it improbable that a person of good character in respect to those traits would commit such a crime.

However, even though you are satisfied that a defendant bore a good reputation, if you are nevertheless satisfied beyond a reasonable doubt on all the evidence including the reputation evidence of the defendant's guilt, then you must bring in a verdict of guilty.

The defendant Florence Behar produced four such witnesses: Joseph Monserrat, Josephine Monserrat, Edith F. Jacobs and Isidore Cisco.

The defendant Milton Cardona produced one such witness, William Zaffuto.

Now, you have heard testimony of individuals named as defendants in this case who have pleaded guilty in this case or in some superseding information such as Ortrud Kapraki. These are witnesses who testified.

Ortrud Kapraki, Edward Goodwin, Frank Fey and Rose Cohen.

You are instructed that a plea of guilty by any of these individuals is personal to them and to them alone, and such guilty pleads are not to be considered by you in any sense as proof of the other defendants' guilt.

You may, of course, consider their testimony, the testimony of these particular witnesses as to their activities and the activities of the defendants on trial as bearing on the guilt or innocence of the defendants on trial. But you may not consider their pleas of guilty as evidence of guilty in determining the guilt or innocence of the defendants on trial.

Now, the next matter that I would like to talk to you about would be what I call opinion evidence.

Now, the rules of evidence ordinarily do not permit witnesses to testify as to their opinions or

conclusions. However, there is an exception to this rule in the case of what we call expert witnesses.

Witnesses who by their education and experience have become expert in some art, some science, profession or calling may state an opinion as to relevant and material matters in which they profess to be expert. And they may also state the reason for such an opinion.

Now, you should consider each opinion received in evidence in this case and give it such weight as you think it deserves.

If you should decide that the opinion of an expert witness is not based upon sufficient education and experience, or if you should conclude that the reasons given in support of that opinion are not found, you may disregard the opinion entirely.

Now, Mr. Milton Francis and -- by the way, I may be talking about particular witnesses or may be talking about a particular matter that they may have testified to and I am going to do it only insofar as it may explain what I am trying to bring out. Please don't feel that if I mention any testimony about any particular witness that I am giving to it any particular significance. That is your job. And I am not going to

get involved in trying to give you any feeling on my part. Please don't. Because if I do, disregard what I think, too, because you are the judges of the facts.

Now, Mr. Milton Francis, who was by his own testimony now the director of the single family underwriting division of the Federal Housing Administration of the Housing and Urban Development Department, was one such witness who among other things gave his opinion with regard to the use of the chief underwriter's prerogative by Mr. Cronin. Other witnesses were also asked to give the opinion on certain questions that may have been asked of them.

Now, going to another subject matter. I will come back to that particular opinion evidence a little later in my charge when I will be discussing the substantive counts.

Now, inconsistencies or discrepancies in the testimony of a witness or between the testimony of different witnesses may or may not cause you, the jury, to discredit such testimony. Two or more persons witnessing an incident or a transaction may see or hear it differently. An innocent misrecollection, like Fey's recollection, is not an uncommon experience. The testimony of a witness about a fact may be

disregarded or impeached by evidence that at another time the witness made a statement inconsistent with or contradictory of the witness' present testimony.

When I say present testimony, I mean the testimony that he is giving on the stand.

In weighing the effect of conflict or discrepancy, consider whether it pertains to a matter of importance or to unimportant details and whether it seems to you to result from innocent error or from intentional falsehood.

(continued next page)

JB:ss
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Charge of the Court

THE COURT: (Continuing.) If you find a witness has been mistaken or untruthful in all or in part of the testimony given, then you may give the testimony of that witness such credit, if any, as you think it deserves in the light of the nature and extent of the defects that you find in it.

If you find that a witness has knowingly testified falsely concerning any material matter, you have a right to distrust that witness' testimony in other particulars and you may reject all of the witness' testimony, or you have your prerogative to give it or part of it the credence you think it deserves.

Now, you are not bound to decide any issue of facts in accordance with the testimony of any number of witnesses which does not produce in your minds belief in the likelihood of truth as against the testimony of a lesser number of witnesses or other evidence which does produce such belief in your mind.

In other words, the test is not which side brings in the greater number of witnesses or presents the greater quantity of evidence, but

which witness and which evidence appeals to your mind as being most accurate and otherwise trustworthy.

As I indicated to you a few moments ago, I will not comment on the evidence or give you any impression as to my own view if I have one or the relative weight of the evidence. If I have done so, when I get all through, you may disregard it entirely, for you are the sole judges of the fact.

And, as I indicated a few moments ago, I may at times in trying to explain some point, I may point out or refer to a witness or to some particular testimony. But that I will be doing in a general way with no specific importance to be attached to that in your consideration of the facts because that is your job and not mine.

Now, during the course of the case I asked a lot of questions of witnesses. I also at times have tried to help ask a question maybe in a different form or in a proper form and you might ask yourselves why.

Well, it is the Judge's responsibility to assist the jury in understanding the evidence by asking certain questions to clarify testimony. But

do not for a moment get the impression of partisanship on my part or the impression that I believe one version of the evidence and disbelieve or doubt another.

Again, I repeat as strongly as I know how, that is for you. That is your job to determine what the facts are.

Now, I think at this juncture before I get further on into the case I am going to give you the witnesses in the order that they testified so that maybe it will bring you back to mind and I will tell you in a very briefdescription who they were, because we go back for a long time now.

And do you remember when I first chose you I said I am going to ask you a lot of nosey questions. But don't feel badly because we will be in all respects practically living with each other for a long time because we anticipated that it would be a protracted trial. In fact, it lasted longer than the most liberal or conservative estimates that we heard at the time. So that we really have been living together and well it has been.

Now, you recall that when we started the

jury impanelment -- I was right -- on October 15th, 1973, and after you were sworn in, opening statements by counsel were made, and then on October the 25th the first witness was called -- I am wrong there. The attorneys began their opening statements on October the 25th and the first witness was called to testify on October the 29th, 1973. And the order of the witnesses as you heard them were as follows:

October 29th, the first witness was Mr. George O. Hipps, Junior. He was a fellow from Washington, who was part of the Housing and Urban Development. And then on the same day we heard testimony from Mr. Vaughn L. Sanders, who, again, is from the Housing and Urban Development Corporation or Department. And he was on for a short number of days. And then came November 5th, 1973 when we began to hear from Mrs. Ortrud Kapraki, the broker. And I think we all remember her. And she testified over a period of about a month because the next witness that we heard from was on December 10th, 1973. And from that day on we heard a whole series of so-called purchases or proposed purchases or purchase mortgagors.

Charge of the Court

And the first one on December 10th was Igmidio Valerio. On December 11th we heard from Jose Nogueras. On December 10th we heard from Mrs. Eugenia Rivera.

(Continued on next page.)

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4aml

On December 12th, again, we heard from Mrs. Sara Matos.

On December 13th, 1973, we heard from Mr. Delfin Feliciano.

On December 13th, 1973, we heard from Mrs. Nilda Ortiz.

On December 18th, we heard from Mrs. Shirley Holmes and on December 19th we heard from Mr. Sheltry Holmes. From Igmidio Valerio down to Mr. Holmes they were all so-called purchaser mortgagors.

Then on December 19, 1973 we heard from Mr. Jose Abad, the self-employed accountant.

On January 2, 1974 we heard from Mrs. -- I think it is Mrs. Josephine Santiago, a reporter employed by the Dun & Bradstreet Hicksville office.

Then we heard on January 10th from Genevieve Winzinger, also a reporter of the Dun & Bradstreet Hicksville office.

Then on January 17th, 1974 we heard from Mary Aery, also a reporter of the Dun & Bradstreet Hicksville office.

Then on January 23 we heard from David M. Miller, who was the Dun & Bradstreet reporting manager at the Hicksville office.

Then on January 29, 1974 we heard from Mr. Frank Fey, who was an officer of and held other offices, as you will remember, an officer of the Eastern Service Corporation.

Then on February 6 we heard from Mr. George L. McCrann. Now, that name may sound a little strange to you but if you recall he was not on the stand very long, but he was the officer of the National Bank of North America, through whom certain checks were introduced.

That was Mr. George L. McCrann.

Then on February 6th we heard from Edward J. Goodwin, an appraiser for the FHA. And he was on the stand until the next week. Mrs. Rita Azzarello, who began testifying on March 12, 1974 -- and, if you recall, she was secretary to Mr. Harry Bernstein. Then on the same day, March 12th, we heard from Mrs. Rose Cohen, the assignment clerk at the FHA office, who was named also as a defendant in this case and who I indicated earlier chose to plead guilty.

And then on March 13 we heard from Martin Hardiman. He, too, was from the Housing and Urban Development and he is the fellow, you will remember,

who prepared those charts and exhibits that I was referring to earlier, which I will again refer to later on in my charge, concerning the use of the CUP.

Then on March 14 we had the testimony of Mr. Milton Francis. He is the fellow that I referred to just a few minutes ago who is also from HUD, Housing and Urban Development, in Washington, who gave his opinion as to the use of the Chief Underwriter's Prerogative.

He was on the stand for several days.

Then we heard from -- we didn't hear from him, he was called -- a William Cantor. He didn't testify because they entered into, you will recall, a stipulation as to him at that time. The stipulation had to do with his company, he being an officer of the title company, the United States Title Company, which has nothing to do with the United States Government, it just happens to have that name, the United States Title Company.

After that, the government rested its case and then after recesses, the first case we heard on was the defendant Harry Bernstein's case, and the first witness who was called on behalf of

Mr. Bernstein was on April 15, 1974, Rabbi Mordecai Waxman -- and I am sure you will remember him.

The next witness, who would have been a witness, but did not become a witness either, called by Mr. Brodsky, was Gail Drexler, and she didn't testify but they entered into a stipulation with regard to her.

And then came a live witness -- you were not live at that time, Miss Drexler -- but then came a live witness on April 16 by the name of Timothy Fiori. You recall he was from the New York Telephone Company, an employee of the New York Telephone Company who testified with regard to certain telephones.

Then Mr. Brodsky called on April 16th, John G. Walsh, who was an employee of the Department of Traffic of the City of New York, and he gave you testimony with regard to certain intersections and streets.

Then there was a delay at that time because a witness on behalf of Mr. Bernstein was not available that day so we went into the Eastern Service Corporation case, and the witness who was called on that day, April 16th, was the employee of

the Eastern Service Corporation who was, I believe, the accountant or the finance man in the Eastern Service Corporation, Mr. Roger Fred.

Then, while he was on the stand a couple of days, the last witness who was to be produced by Mr. Brodsky was called on the 18th of April, 1974, Mr. Maxwell Lehman. You remember, he was the locksmith. He gave us all a little laugh with all those rings and keys that he came with and he testified with respect to certain keys.

Then we returned back to the case of the Eastern Service Corporation, and Mr. Roger Fred was again recalled on the 18th after Mr. Lehman testified and he continued thereafter for several days, and it was then agreed, if you recall, that Mr. Roger Fred would be excused for that time and return later during the course of the trial for further testimony. And as it turned out, you remember later there was a stipulation as to him, and we will refer to that stipulation as we go along, that Mr. McEvoy read at length regarding certain of the things which I won't try to describe at this time, but that had to do with the testimony that he was giving at the time.

6 Charge of the Court

Then on April 23rd we started the so-called -- I call it as such -- the Dun & Bradstreet case. On April 23rd the first witness for Dun & Bradstreet was Mr. Harold Redding, the secretary -- was it secretary-treasurer, Mr. Obermaier?

(Continued on next page.)

Notes

MR. OBERMAIER: Just secretary, your Honor.

THE COURT: Just the secretary of the Dun & Bradstreet corporation.

On April 29, 1974, the next witness was Mr. Hamilton Mitchell, the president and chairman of the board of Dun & Bradstreet.

Then on the same day, April 29th, we heard from Mr. James McDowell, manager of the computer operations of Dun & Bradstreet.

On the same day, April 29th, we heard from John E. Swaysland, the administrative assistant of Dun & Bradstreet.

On April 30th we heard from Mr. Donald Dean, the supervisor of the program division.

Then on May 1, we heard from Mr. Charles J. Nolet, the accounting department of Dun & Bradstreet.

And last was the testimony of Mr. Leslie Sparrow on May 2, and you will recall he was the manager of the Cameo Color Labs.

Then we got to the Herbert Cronin case, and you will recall that Mr. Herbert Cronin testified in his own behalf and he began on May 6, 1974.

Thereafter, we started on the Florence Behar case and the first witness on that case was called

on May 14, 1974, and that was first Mr. Joseph Monserrat, who is a member of the New York City Board of Education, and he was called as a character witness.

On the same day, May 14th, the next witness was Mrs. Josephine Monserrat, the wife of Joseph Monserrat, and she herself was an elementary school guidance counselor, and she was called as a character witness.

On the same day, May 14th, the next witness was Mrs. Edith F. Jacobs, and you recall she testified that she had been a voluntary worker and she too testified as a character witness.

Then on the same day, May 14th, the last witness in the Behar case, so to speak, was Isidore Sisko, who was an employee of the Board of Education. He too was called as a character witness.

Then we got to the Melvin Cardona case and the first witness was called on May 14th, also, and his name, if you recall, was Roy Wink, who was an employee of the Willoughby Peerless Company.

The next witness on the same day, May 14th, was Mrs. Cecilia Cardona, the wife of the defendant Melvin Cardona. and then the last witness on the same date, May 14th, was Mr. William Zaffuto, who

was called as a character witness.

That gives you a list of all the witnesses who testified and on whose behalf they testified.

Now, from time to time, in the course of the trial objections have been made and rulings on evidence given. Draw no inference from the comparative frequency of objections by one side or the other side, or from the comparative record in having objections sustained.

Where an objection to a question has been sustained, disregard the question and draw no inference from its working about what the answer might have been if given.

Where an objection is overruled, evidence that is received thereafter has no special weight just because it was unsuccessfully objected to.

Now, in order to establish the commission of a crime by any person, the Government need not prove that that person had a motive to commit a crime. If, however, the Government does prove that a particular defendant had a motive to commit the crime, that motive should be considered by you in determining whether the defendant actually committed the crime.

If, on the other hand, no motive is shown,

the absence of a motive on the part of a particular defendant may be considered by you in determining whether or not he actually committed the crime.

Where two or more persons are charged with the commission of a crime, the guilt of one defendant may be established without proof that all the defendants perpetrated every act constituting the offense charged.

However, you, the Jury, must give separate consideration to each individual defendant and to each separate charge against him.

These defendants are, therefore, entitled to have his or her case determined on each count from his or her own conduct and from the evidence which may be applicable to him or her. I will go into that a little bit more as we go into this charge a little more deeply. When you do so you should analyze what the evidence in the case shows with respect to that individual, leaving out of your consideration entirely any evidence admitted solely against some other defendant or defendants.

Each defendant is entitled to have his or her case determined from the evidence as to his own acts and statements and conduct, and any other evidence

in the case which may be applicable to him.

Now, when you were being chosen as jurors, I told you at that time that the indictment in this case contains 65 counts, or charges. We are now concerned with 64 counts. Count 11 was dismissed as against the defendants Dun & Bradstreet and Arthur Prescott, and the other defendant named in that particular count had been severed, so therefore you are, in your consideration and deliberations, to disregard Count 11.

Counts 2, 18, 20, 25 and 50 were dismissed as against the defendant Rose Bernstein, and Counts 2, 18 and 20 were dismissed as against the defendant Harry Bernstein.

We are only, therefore, concerned in this trial with these counts as to the remaining defendants in those counts. The rulings by the Court as to these counts are not to be taken into account by you, that means the dismissal. The ruling by the Court as to these counts are not to be taken into account by you as to your action on the remaining counts or your deliberation on the remaining counts.

You must still do your duty in accordance with my charge as to all the counts, as I will more

in detail talk to you about as we go along.

Now, I shall refer to each count, tell you under which title of the United States Code and seconds thereof each count is drawn. I shall read the pertinent sections and I will tell you waht the eseential elements of each count are that the Government must prove beyond a reasonable doubt.

Naturally I am going to go into the first count, but before I do, I just want to at this time read to you the sections of the law that we will be referring to, and I am going to read them at this time so that you will have the sections generally in your mind. I am going to try to read the whole of each section to you so you will nave the whole picture in your mind insofar as that particular section is concerned, because later on, as I discuss in the substantive counts the particular counts and the particular defendant, I will be referring to those sections again. But in that regard at that time I will only refer to what I shall then call the relevant or pertinent part of that particular section as it relates to the particular defendant that I will be talking about and the particular count that I will be talking about, so that when I get to that point,

I will just be using a small part of the section which I believe is relevant and pertinent to that count and to that particular defendant.

So that I would rather at this time give you a reading of the entire sections involved so that when the time comes you will know when I say to you: Just the pertinent part, you will know more or less what I was talking about.

MR. BRODSKY: On behalf of saving your Honor's voice, may we have a brief recess, Judge?

THE COURT: Don't feel sorry for me at all.

MR. BRODSKY: I beg your pardon?

THE COURT: I say, don't feel sorry for me at all. I am kind of used to talking a lot, but it may be an appropriate spot because I will be reading to you, and I am not going to read the four books to you, don't feel too badly. I am just going to take the particular section and I am going to zero in on that one section alone. Then I will get into the counts in the indictment.

So maybe this might be an appropriate time to stop to have lunch and --

MR. BRODSKY: May I suggest, Judge, that we take a brief recess at this time while the arrangements

are being made and then take the luncheon at 1:00 o'clock, Judge.

THE COURT: Either way.

One moment, please.

(Pause.)

THE COURT: Supposing we take a short recess.

Again, the admonition will go as always, so just keep everything in abeyance until you hear my complete charge.

All right, we will take a short break.

(Jury excused.)

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(Continued on next page.)

THE COURT: There is an arrangement that's been made with the restaurant which will take the jury immediately and bring them back as soon as possible, and so I am going to -- rather than continue my charge for a half-hour and quit, I am going to recess now for lunch, and then ask that the marshals return the jurors as soon as possible, and we'll be ready as soon as they are back.

MR. BRODSKY: May we know the name of the restaurant, Judge, so that --

THE COURT: Certainly. I am going to do that so that you will --

MR. BRODSKY: So that we'll keep out of there.

THE COURT: I intend to do that. It's Foffe's on Montague St., as you know.

MR. BRODSKY: Foffe?

THE COURT: Yes, sir.

MR. BRODSKY: Whew! They won't come back.

THE COURT: Well, I am going to prohibit them from imbibing anything at this time. And that I am sure the marshals have heard.

Ladies and gentlemen of the jury, first of all, the lawyers understand that there is to be no communication, even accidental, between them and any

members of the jury, so that that was the reason why I wanted the name of the restaurant, so I could advise the lawyers where you will be, and they will make it their business to go some place else.

You as jurors keep in mind my admonition. It still goes in every respect. And you will be going out to lunch together, so you don't talk about the case, because these marshals are nosy, and I don't even want them to hear anything about what you're saying.

And you are not supposed to, because you are not supposed to yourselves do anything about this case during the lunch hour.

So I'll swear the marshals in first.

(Marshals sworn.)

THE COURT: All right, you are going to take the jury to Foffe's.

THE MARSHAL: Yes.

THE COURT: Did they give you any idea about when they will return?

THE MARSHAL: Well, Mr. Foffe himself did speak to supervising deputy Sullivan. As soon as possible, your Honor. I can't pinpoint a specific time.

THE COURT: I'll leave it to your good judgment. But the jury will go out.

So you are excused then for lunch, and you will go in the accompaniment of these two fine gentlemen, and enjoy your lunch, and as soon as you come back we'll continue with my charge.

Okay, you are excused.

(Jury out.)

THE COURT: Okay, gentlemen, we'll stand in recess for lunch, and I think we should be available in about an hour, an hour and fifteen minutes.

MR. BRODSKY: You haven't been to Foffe's lately, Judge.

THE COURT: That's when you and I go. But when the jurors go with the marshals they have specific orders, so they'll get them to us as soon as possible, I'm sure.

MR. BRODSKY: It's a long walk, too.

THE COURT: I know. You know what they say: Do the best you can.

Just for a moment, please.

MR. WALL: Your Honor, I realize that the appropriate time for exceptions is after the charge, but there is one matter which, if I am correct, you may wish to consider and change now, before we get into the major portion of the charge: You wrote a list of people off and indicated that everybody else except those whom

you were then naming were either accomplices or co-conspirators, and I think you inadvertently failed to include in that list of the non-accomplices, non-co-conspirators, Genevieve Winzinger, Josephine Santiago, Mary Aery and David Miller.

They were never alleged to be either in the bill of particulars or the indictment accomplices or co-conspirators.

THE COURT: Well, I said accomplices --

MR. WALL: Or co-conspirators.

THE COURT: (Continuing) -- or co-conspirators, at the very least. I don't remember which word came first. But I am just wondering whether or not even those three girls cannot be in some way implicated in their discussions with themselves or with Miller or with Prescott, or --

MR. WALL: I think there is a different question, your Honor. There is a different question as to whether or not their conduct is conduct to which the corporation can be held liable, and although we have taken a different position on the --

THE COURT: I know you have, and I indicated that I would in my charge indicate that corporate liability may be established by showing the acts of employees, not necessarily officers.

MR. WALL: But this is the first time, your Honor, in this entire trial where they have been alleged or described or even hinted at as being accomplices or co-conspirators.

Mr. Bashian may have something --

MR. DE PETRIS: We would have no objection, your Honor, if when we came back you told the jury that although liability may be based on their conduct, that they are not -- that you are not charging that they are accomplices or co-conspirators.

THE COURT: All right.

MR. DE PETRIS: We would have no objection to that.

THE COURT: All right, I'll rectify that.

(Luncheon recess.)

AFTERNOON SESSION

FL:GA
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2:10 o'clock P.M.

THE COURT: Good afternoon. I hope you had a good lunch.

I had gotten to the point where I told you that I would read certain Sections of the Law, which I shall, but before doing that, in looking over my notes concerning the parts that I Charged you on this morning, I note that at one point where I had given you the names of the witnesses in the order in which they testified -- and this was before giving you that list of names -- I said, "I Charge you that all of the Government witnesses, other than Mr. George O. Hipps, Warren Sanders, Rita Azzarello, Martin Hardiman, Milton J. Francis and George L. Maclin are either co-Conspirators, or at a minimum, Accomplices to the offenses charged in this Indictment."

I let escape from the names of three other individuals, namely Miss Santiago, Miss Winzinger and Mrs. Aery. They should be added to that list of those who were not.

MR. WALL: Excuse me, your Honor. I think, and Mr. Miller also, David Miller.

THE COURT: Was it Mr. Miller also?

MR. BASHIAN: Yes.

MR. WALL: Yes.

THE COURT: That's right, and Mr. Miller. Thank you, fellows.

Of course, I sure that the reason I let that escape me was that I intended to make some mention of the four of them when the time comes, and when I begin to discuss with you the question of corporate liability.

So that -- In the meantime, I'm putting my things together -- so that was the reason why I guess I let it escape me, but it's done now, so that all those names now, everybody else other than those, will be in the category I just indicated to you.

Now getting to the Sections that I will be dealing with in this Charge, I'll start first with -- I don't know why, but I'll strart first with Section 271, which is the Section that has to do with Conspiracy, because that is the first Count that I will be discussing. I'll read that to you, and I will be referring to it again when I get into Count One.

371 is entitled, "Conspiracy to Commit Offenses, or to Defraud the United States," and it reads as follows"

"If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any Agency thereof, in any manner, or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall

be," et cetera, et cetera, "guilty of an offense against the United States."

Then there is also a second part in that Section, which I won't read, because I will not be referring to it at all in my Charge, so therfore we'll stick with that part that I just read. That's Section 371.

It didn't take long to read that volume.

Then the next Section that I want to refer to is Section 1010, which is the Section which has to do with false statements, over-evaluation, things of that nature, which we will be referring to a number of times in the Charge, as I will be giving it to you, so this one I will read in its entirety, and as I indicated to you before lunch, when the time comes that I will be discussing particular Counts and particular defendants -- and I'm talking about the substantive Counts -- I will again refer to the Section, and at that time I will be telling you the pertinent part of the Section, and the relevant part of the Section that has to do with the particular defendants, rather than read to you the entire Section.

So that I will read it all to you now, and then I won't have to read the whole thing again later.

1010 -- By the way, all these Sections that I am

reading from are from, as I will tell you later on, Title 18 of the United States Code, which is a whole thing, including X number of volumes, and this is Title 18, Section 1010.

1010 is entitled, "Department of Housing and Urban Development, and Federal Housing Administration Transactions."

"Whoever, for the purpose of obtaining any loan or advance of credit from any person, partnership, association or corporation, with the intent that such loan or advance of credit shall be offered to or accepted by the Department of Housing and Urban Development for insurance, or for the purpose of obtaining any extension or renewal of any loan, advance of credit or mortgage insured by such Department, or the acceptance, release or substitution of any security on such a loan, advance of credit, or for the purpose of influenceng in any way the action of such Department, makes, passes, utters or publishes any statement knowing the same to be false, or alters, forges or counterfeits any instrument, paper or document, knowing the same to have been altered, forged or counterfeited, or wilfully overvalues any security, asset or income, shall be --", et cetera, et cetera, et cetera, "guilty of an offense against the

United States." That's Section 1010.

Then we will be going to Section 2 of the Title, and that's the so-called Aider and Abettor Section. Section 2 if entitled, "Principals," and it has two sub-divisions.

"Principals: A, Whoever commits an offense against the United States, or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

"B, Whoever wilfully causes an act to be done which if directly performed by him or another, would be an offense against the United States, is punishable as a principal."

And that Section, of course, I will be discussing several times, because as I will go along, I will tell you that certain defendants are charged with violations of Section 1010, and 2, and then I will tell you Sections 201 and 2, so that 2 will come into play several times as we go along.

And the next Section that I want to read to you is the Section that has to do with Bribery, and that's the Bribery Counts that we will be talking about at great length, and that's Section 201, and 201 is entitled, "Bribery of Public Officials and Witnesses," and there

are several sub-divisions. And I'm going to get to the heart of the Section, because that's the part that we will be dealing with most, but Sub-division (a) of that Section defines certain terms, what a Public Official is, what an Official Act is, and I will be reading those definitions from this Section in their entirety when I get to a discussion of this particular Count.

(continued on next page.)

So that I will skip subdivision A of 201 at this time and get to the subdivision (b), which is the one that has to do with this case and these counts that we'll be going into in detail.

So therefore 201(b), and you have heard me say 201(b) (1). Now, (b) is a subdivision of 201 and (1) is a subdivision of (b). So 201 (b) reads as follows:

"Whoever directly or indirectly corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with the intent, one--" here comes that (1) -- "to influence any official act."

Now, when there are two other subdivision under (b), that's (2) and (3), which we'll not concern outselves with, and then we will be concerned with the other parts of this section, which I am sure you remember I mentioned, 201 (c) (1):

(c) is as follows: "(c): Whoever, being a public official or person selected to be a public

official or indirectly corruptly asks, demands, exacts, solicits, seeks, accepts, receives or agreed to receive anything of value for himself or for any other person or entity in return for, one, being influenced in the performance of any official act, or," -- then it becomes (2) and (3), which we're concerned with. And then as we go along in the course of my charge in that same section 201 I will be coming to subdivision (f) and (g) so I am going to read them to you now because I will be reading them to you again later, but as long as I am reading 201 at this time, and I have already given you 201 (b) and then (1) and (c) and then (1) I will give you 201 (f) and (g) at the same time.

201 (f): "Whoever otherwise than as provided by law for the discharge of official duties directly or indirectly gives, offers or promises anything of value to any public official, former public official or person selected to be a public official, for or because of any official act performed or to be performed by such official, former public official or person selected to be a public official, or" -- then I will go into (g)

and then I will tell you what the or stands for:

"(g) Whoever being a public official, former public official or person selected to be a public official otherwise than as provided by law for the proper discharge of official duty directly or indirectly asks, demands, exacts, solicits, seeks, accepts, receives or agrees to receive anything of value for himself for or because of an official act to be performed by him," and or gives the other subdivisions down to (j), (k), (h), (k), and then it says if they do any of those things they are punishable as having committed an offense against the United States.

So in discussing 201 therefore, I gave you 201 in its broad term first, which I told you subdivision (a) of it describes and defines certain terms, then (b) (1) is the part that we will be talking about insofar as the giving or a bribe, and then (c) (1) is the part of the crime that talks about acceptance of a bribe, and then(f) and (g) which I have described to you earlier, are what we call lesser included offense in each of (b) and (c), and I will talk to you more about it later on so you understand it better.

And then another section, which I think I should read in part to you, and I will be referring to this and other sections as I go along, but during the course of the trial you will recall there was testimony by, particularly I believe Mr. Hipps, concerning the National Housing Act, and he talked about certain sections of the Code of Federal Rules, which prescribe certain provisions and the necessary data that has to be submitted for a company to be an approved mortgage lender.

And you recall he went into that, if you can remember that far back, but he did talk about the National Housing Act and the policy of the nation through its National Housing Policy Act, and then he talked about what an approved lender is, what is expected of them, et cetera, et cetera.

Now, the particular section of the National Housing Act -- and I am sure it is not necessary to read the whole thing, but I want to read quite a bit of it to you, because I think it's important to have it in mind because it has to do with the case that we are dealing with and the Federal Housing Administration, and I think it becomes important that we know something about it.

And that's, of course, not in the same title of the United States Code that I read the other four sections from, but in the same United States Code but Title 42, and it's encompassed in section -- that we're interested in -- section 1441, which has to do with Congressional Declaration of National Housing Policy.

It states as follows that: "The Congress declares that the general welfare and security of the nation and the health and living standards of the people require housing production and related community development sufficient to remedy the serious housing shortage, the elimination of substandard and other inadequate housing through the clearance of slums and blighted areas, and the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family, thus contributing to the development and redevelopment of the security of the nation.

"The Congress further declares that such production is necessary to enable the housing industry to make its full contribution toward an economy of maximum employment production and

purchasing power. The policy to be followed in attaining the national housing objective established shall be, one, private enterprise shall be encouraged to serve as large a part of the total needs as it can.

"Two, Governmental assistance shall be utilized where feasible to enable private enterprise to serve more of the total needs.

"Three, appropriate local public bodies shall be encouraged and assisted to undertake positive programs of encouraging and assisting the development of well planned integrated, residential neighborhoods, the development and redevelopment of communities and the production at lower cost of housing of sound standards ofdesign, construction, liveability and size for adequate family life.

"Four, Governmental assistance to eliminate substandard and other inadequate housing through the clearance of slums and blight areas to facilitate community development and redevelopment, and to provide adequate housing for the urban and rural non-farm families with incomes so low that they are not being decently housed in new or existing housing, shall be extended to those

localities which estimate their own needs and demonstrate that these needs are not being met through reliance solely upon private enterprise and without such aid.

"Five, Governmental assistance for decent, safe and sanitary farm dwellings and related facilities shall be extended where the farm owner demonstrates that he lacks sufficient resources to provide sufficient housing on his own account and is unable to secure necessary credit for such housing from its sources on terms and conditions which he could reasonably be expected to fulfill.

(Continued on the next page.)

The Department of Housing and Urban Development and any other departments or agencies of the Federal Government having powers, functions or duties with respect to housing shall exercise their powers, functions and duties under this or any other law consistently with the National Housing Policy declared by this act and in such manner as will facilitate sustained progress in attaining the National housing objective hereby established, and in such manner as will encourage and assist, one, the production of housing and sound standards of design, construction, liveability and size for adequate family life;

Two, the reduction of costs of housing without sacrifice of such sound standards;

Three, the use of new designs, materials, techniques and methods in residential construction, the use of standardized dimensions and methods of assembly of home building materials and equipment, and the increase of efficiency in residential construction and maintenance.

Four, the development of well-planned, integrated residential neighborhoods and the development and redevelopment of communities.

Five, the stabilization of the housing industry at a high annual volume of residential construction.

Of course that is a general welfare and security policy declared by Congress in its establishment of the different housing programs, and the one that we are discussing at this time is that section, Section 1441.

Now getting to the indictment -- and I'll take Count 1 first because it is number 1 and because all of the defendants on trial, the nine defendants on trial, are named in thatcount. Now I am going to read each count -- I am not going to read all 65, but I am going to read all counts, and when it comes to a particular defendant where he is being charged in more than one count, if they are identical I will read just one and tell you whether they are the same and the others are not.

But for Count 1, which is the conspiracy count and which does name all nine defendants and others, I will read it in its entirety.

Count 1: "On or about" -- and by the way -- Well, I will tell you more about it as I go along --

Count 1: "On or about and between the 30th day of March 1967 and the 29th day of March 1972, within the Eastern District of New York, the defendants Harry Bernstein, Rose Bernstein, also known as Rose Shorenstein, Eastern Service Corporation, Dun & Bradstreet,,Inc., Herbert Cronin, Florence Behar, Frank Fey, Arthur Prescott, Ortrud Kapraki, Melvin Cardona, Patricia Buckley, Edward Goodwin, Joseph Jankowitz, Frank Dreis, Greville Harvey, Rose Cohen, Joseph Monte, Irving Figowitz, Ralph Gonias, Harold Keller, Manuel Carpio, Douglas Hollenbach, Richard E. Bell and Roy Schiller, who is herein named as a conspiracor but not a defendant, conspired to commit offenses against the United States, mainly for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue insurance for loans and advances of credit. The defendants submitted applications for mortgage insurance containing false, fraudulent, incomplete and fictitious information, in violation of Title 18 United States Code, Section 1010," which I read to you, "and conspired to bribe officials of the Federal Housing Administration of the Department of Housing and

Urban Development in order to induce them to unlawfully and corruptly increase the values of real property within the Eastern District of New York, and to corruptly procure the improper assignment,processing, review and approval of applications for mortgage insurance submitted by the defendant Eastern Service Corporation to the Federal Housing Administration of the Department of Housing and Urban Development, in violation of Title 18 United States Code, Section 201," which is the other section I read to you that has to do with bribery, bribery giving and bribery receiving.

And then it goes on: "It was a part of the conspiracy for the defendants Harry Bernstein, Rose Bernstein, also known as Rose Shorenstein, and Eastern Service Corporation and its principals and employees, including the defendants Florence Behar, Frank Fey, Melvin Cardon and Patricia Buckley, as well as the defendant real estate broker Ortrud Kapraki and her employees, attorneys and representatives, including Ralph Gonias, Irving Figowitz, Harold Keller, Manuel Carpio, Douglas Hollenbach and Richard E. Bell, to submit false and fraudulent information to the Federal Housing

Administration of the Department of Housing and Urban Development and to submit such false and fraudulent information to the defendant Dun & Bradstreet, Inc., and for the defendant Dun & Bradstreet, Inc. to verify and report such information as true, although it was known to the defendant Dun & Bradstreet, Inc. and its employee, the defendant Arthur Prescott, as well as to other responsible officials and employees of Dun & Bradstreet, Inc. that such information was in fact false, inaccurate and incomplete."

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Charge of the Court

It was further a part of the conspiracy for the defendants Harry Bernstein, Rose Bernstein, also known as Rose Shorenstein, and Eastern Service Corporation to procure false, inflated and excessive valuations on real properties whose mortgage insurance applications were being processed through Eastern Service Corporation to procure the expeditious handling of such applications and to cause officials of the Federal Housing Administration of the Department of Housing and Urban Development to fail to subject such applications to proper review procedures by bribing and causing to be bribed officials of the Federal Housing Administration and the Department of Housing and Urban Development.

As a further part of the conspiracy, the defendant Herbert Cronin, by virtue of his position as Chief Underwriter at the Hempstead, New York office of the Federal Housing Administration of the Department of Housing and Urban Development, corruptly used the discretionary powers entrusted to him in his official office, in that he wilfully, directly and indirectly increased the value of mortgage insurance commitments on behalf of the

defendants Rose Bernstein, also known as Rose Shorenstein, Harry Bernstein and Eastern Service Corporation and their customers.

That count is charged under Title 18 which I read to you earlier, the United States Code Section 371 of Title 18 which I read to you earlier.

Now, the count then continues on, after it says under that section, in furtherance of and to effect the illegal objects of the conspiracy, the defendants committed the following overt acts:

1, the grand jury repeats and realleges each and every allegation in Counts 2 through 65 as though fully set forth herein. Each over t act --

By the way, before I go on from there, those 2 to 65 are what is alleged in the indictment to be the overt acts in furtherance of that conspiracy.

Now, those overt acts also are charged in the same numerical order, 2 through 65, as substantive counts, which I will come to later when I discuss each phase of this case with each defendant and each substantive count. But for the time being, we are going to consider what I am discussing, the conspiracy count. We are going to be discussing

the so-called counts 2 through 65 as overt acts as distinguished from substantive counts.

Now, each overt act set forth in Counts 2 through 65, inclusive, are also charged, as I told you, as separate substantive counts. And as I also told you Count 11 will not be considered by you in your determination in this trial.

However, for this part of my charge we shall consider them as overt acts.

Now, it would be impossible for you to remember them if I read each one of them to you now and asked you to remember each one of them as an overt act as alleged in furtherance of this conspiracy. Therefore, when you go in to deliberate, I shall give you a copy of the indictment and you will have that indictment before you and you will have each of the overt acts written out so that you can see them yourself, read them yourself, and you will have them before you.

In fact, I have prepared that here and I will talk about that in a few moments as I get to it.

When I deal with these overt acts as substantive counts, differentiated from over t act,

I will then go into them more fully and I will describe them to you more fully because a different rule will apply then as to them.

Therefore, count 1, which is the conspiracy count, charges all the defendants now on trial -- that is, the nine on trial now -- with a conspiracy in violation of Title 18 of the United States Code, Section 371.

And while I read it to you earlier, I am going to read it to you again because I am now beginning to discuss these counts in the order that they will be discussed in my charge.

Now, Section 371 of Title 18 provides in part, pertinent to this case and to this count and to these defendants, as follows:

If two or more persons conspire to commit any offense against the United States, and one or more of such persons do any act to effect the object of the conspiracy, each is guilty of an offense against the United States.

Now, at this time I want to tell you that I charge you that Count 1 as alleged in this indictment charges a single conspiracy having two objects or goals, and the burden is upon the government to

prove that charge as it's made beyond a reasonable doubt.

Now, jI just indicated to you that it charges a single conspiracy with two objects or goals.

Now, the objects or goals are, one, the submission of applications to FHA -- that's the Federal Housing Administration -- containing false statements for the purpose of influencing the Federal Housing Administration or the Housing and Urban Development Department, to issue mortgage insurance.

And then the second goal or object is the bribery of FHA officials with intent to influence their official action.

Now, four essential elements are required to be proved in order to establish the offense of conspiracy that is charged in this indictment and the government must prove each of these essential elements beyond a reasonable doubt.

First, that the conspiracy described in the indictment was wilfully formed and was existing at or about the time alleged. That is, on or about and between March 30th, 1967 and March 29th, 1972.

Second, that each of the accused on trial

wilfully became a member of the conspiracy.

Third, that one of the conspirators thereafter knowingly committed at least one of the overt acts charged in the indictment on or about the time and place alleged.

And fourth, that such overt act was done knowingly in furtherance of some object or purpose of the conspiracy as charged.

Now, I am sure I need not tell you this, but this particular charge is -- part of my charge is quite difficult to follow, so I am going to read it as slowly as I can, and in that way you will be able to absorb the meaning of it better.

Now, in discussing the first element -- that was, I think, the conspiracy described in the indictment was wilfully formed and was existing at or about that period -- in discussing the first essential element, I charge you that a conspiracy is an offense separate from the commission of any offense that may have been committed pursuant to the conspiracy. That is, because the formation of a conspiracy of a partnership in criminal purposes is in and of itself pronounced a crime by the statute. You heard me read that before.

7 Charge of the Court

A conspiracy is a combination or agreement of two or more persons to accomplish an unlawful purpose by their concerted action.

Now, the essence of the charge of conspiracy is, first, an understanding among two or more persons that they will act together in a conspiracy to accomplish the objects which they know are unlawful.

Plus, second, the doing of an overt act in furtherance of the conspiracy.

Now, that understanding does not have to be a formal or an expressed one. The understanding essential to the finding of a conspiracy exists if by whatever means, tacit or outspoken, the alleged members of the alleged conspiracy have arranged to unite their several efforts to accomplish a common objective that they know is unlawful.

Now, with respect to the second essential element, and that was, each of the accused on trial wilfully became a member of the conspiracy. There is no evidence in this case connecting the defendants Dun & Bradstreet and Arthur Prescott and Melvin Cardona with the bribery aspect of the conspiracy.

Likewise, there is no evidence in this case connecting the defendants Herbert Cronin and Joseph Jankowitz with the false statement aspect of the conspiracy.

Now, in order to find that a particular defendant has become a member of the conspiracy, it is necessary to find that the defendant knew or was -- let me start that again.

That was the second. Yes, that was the second essential element.

Now, in order to find that a particular defendant has become a member of the conspiracy, it is not necessary to find that the defendant knew or was aware of both objects of the alleged conspiracy. It is sufficient to find that a particular defendant is a member of the conspiracy if you find beyond a reasonable doubt that the scope of the particular defendant's agreement included one of the objects of the conspiracy provided that you first find that the single conspiracy charge in the indictment exists, and that the scope of the agreement made by at least any two of the defendants included both objects of the conspiracy.

In this regard, you should first determine whether the evidence shows beyond a reasonable doubt that the scope of an agreement, if any, made between the defendants Harry Bernstein, Rose Bernstein, Florence Behar, Eastern Service, and the co-conspirator Ortrud Kapraki, or any two or more of them, included both objects or goals, the false statement and the bribery aspects of the conspiracy.

In other words, first you attack the conspiracy, the single conspiracy. Any two or more of those that I mentioned last, if it's prove to your satisfaction beyond a reasonable doubt that any two or more of them combined and knew both objects or goals, then after that, as I indicated to you, it is sufficient to find that a particular defendant is a member of the conspiracy if you find beyond a reasonable doubt that the scope of the particular defendant's agreement included one of the objects of the conspiracy. And I said, provided that you first find the single conspiracy and then I told you the rest.

Now, in determining whether or not a defendant was a member of the part of the conspiracy involving

submission of false applications to the FHA, one of the goals or objects of the conspiracy alleged in the indictment, you must determine whether the evidence established beyond a reasonable doubt that the defendant in question had actual knowledge that false statements would be submitted to the FHA and acted with this knowledge to further the objects of the conspiracy.

If the jury finds from all the evidence beyond a reasonable doubt that a defendant showed a continued indifference to the truth or falsity of statements coupled with a knowledge that in some cases the statements were false, it may infer the required knowledge by the defendants that false statements would be submitted.

I will go into that a little more deeply as we go along.

Stated in another way, if you find beyond a reasonable doubt that a defendant agreed to participate in the submission of credit applications to the FHA, being aware of a high probability that a false statement would be included, or knowingly that the likelihood of false statements -- the likelihood of false statements was great, and

if you also find beyond a reasonable doubt that false statements were actually submitted to the FHA, then the element of knowledge, of actual knowledge as required in the conspiracy count is sufficient.

As I indicated to you I will go to that in more detail as we go along.

Now, since there are two corporations charged as defendants in this count, namely, Eastern Service Corporation and Dun & Bradstreet, Inc., I want to say a word about corporations.

I charge you that a corporation which can only act through its agents and employees, is responsible for the acts of such agents and employees who violate the criminal law if such acts are done within the scope of employment and with intent to benefit the corporation or further the corporate business.

In order to find a corporation guilty of a crime, you must find beyond a reasonable doubt that, one, an agent or employee of the corporation has committed an act in violation of the criminal law.

Two, the agent or employee was acting within the scope of employment.

And three, the agent or employee acted with an intent to benefit the corporation or further the corporate business.

This standard of corporate criminal liability applies to both the conspiracy count and the substantive counts.

I will be referring to this again as we go to the substantive counts later.

Now, there has been some evidence in this case, and it is your duty to remember what the evidence was, and I am not going to try to pinpoint any particular part of the evidence. As I said before, I will not marshal the evidence in this case.

There has been some evidence in this trial that some employees of Eastern Service Corporation were paid some money by Ortrud Kapraki. If an employee performs a criminal act with intent to benefit himself or herself, that is, the receipt of money, and with no intent to benefit the corporation, then the corporation may not be held responsible for that criminal act by the employee.

However, if an employee performs a criminal act with some intent to benefit himself or herself,

and also with the intent to benefit the corporation, then the corporation may be held responsible for that criminal act. And it is for you to determine based on all the evidence what was the intent of an employee performing the actions involved in this trial.

IF there was an intent to benefit the corporation, then it is immaterial whether any benefits do accrue to the corporation, whether any benefit is discernible or even if the result turns out to be adverse to the corporation.

There has been no evidence in this case that any officer or director of Dun & Bradstreet, Inc., was involved in the crimes charged in this indictment.

In order to find a corporation guilty of a crime, however, it is not necessary for the government to prove that an officer or director of the corporation is involved in the commission of the crime. It is the function delegated to the employee which determines his power to engage the corporation in a criminal transaction.

The critical question in this regard is whether or not the employee was acting in the area

of responsibility assigned or entrusted to him by the corporation. If the employee violates the law while acting in that area of responsibility, then the corporation may be held responsible.

If the requirements I mentioned above just a few moments ago are met by proof beyond a reasonable doubt, then it is no defense by a corporation to a criminal charge that the corporation has not authorized the illegal conduct, that the actions have been done without the knowledge of the corporation's officers, or direction, or directors, or that the unlawful activities of the employees were against the policy of the corporation as established by its officers and directors.

Now, one may become a member of a conspiracy without having full knowledge of all the details of the conspiracy and without knowing the identities of the other conspirators. However, a person who having no knowledge of a conspiracy action in a way which furthers some object of a conspiracy does not thereby become a conspirator.

Now, to act or participate wilfully -- and these are the words I used in giving you the essential elements that we have been talking about --

to act or participate wilfully means to act or participate voluntarily and intentionally and with specific intent to do something the law forbids or with the specific intent to fail to do something the law requires to be done. That is to say, to act or participate with that purpose either to disobey or to disregard the law.

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So if a defendant, or any other member, with understanding of the unlawful character of a plan, knowingly encourages, advises or assists, for the purpose of furthering the undertaking or scheme, he thereby becomes a willful participant, a conspirator.

Mere suspicion on the part of a defendant that a conspiracy exists among others is not sufficient to establish a defendant's knowledge of the alleged conspiracy. The mere association of the defendant with other co-defendants is not sufficient to establish willful participation in the alleged conspiracy.

You should presume that contacts between the alleged co-conspirators are innocent, unless circumstances prove otherwise.

The mere fact that there are nine defendants on trial together cannot be considered in any way as indicating that they participated in a common plan, agreement or conspiracy to violate the law. The mere fact that they may be associated in the same group or industry cannot be considered by you as proof of their joint participation in a common plan, scheme or conspiracy.

In determining whether a conspiracy existed, the jury should consider the actions and declarations of all of the alleged participants. However, in determin-

ing whether a particular defendant was a member of a conspiracy, if any, the jury, you the jury, should consider only his acts and his statements. He cannot be bound by the acts or declarations of other participants until it is established that a conspiracy existed, and that he was one of its members.

Now, whenever it appears beyond a reasonable doubt from the evidence in the case that a single conspiracy existed, and that a defendant was one of the members, then the statements thereafter knowingly made, and the acts thereafter knowingly done by any member likewise found to be a member of that conspiracy, may be considered by the jury as evidence in the case as to a defendant found to be a member, even though the statements and acts may have occurred in the absence, and without the knowledge, of the defendant, provided such statements and acts were knowingly made and done during the continuance of such conspiracy, and in furtherance of some object or purpose of the conspiracy. Otherwise, any admission or incriminatory statement made, or act done outside of court by one person, may not be considered as evidence against any person who was not present, and did not hear the statement made, or see the act done.

Therfore, statements of any conspirator which are

not in furtherance of the conspiracy, or made before its existence, or after its termination, may be considered, but only as evidence against the person making it, not against anybody else.

Likewise, you may not consider any such act or declaration against any defendant, unless you find, beyond a reasonable doubt, that the person doing the act, or making the declaration, was a participant in the same object and the same conspiracy as was that defendant.

Specifically, and to clarify what I mentioned earlier, you may not consider any such act or declaration which was in furtherance of the bribery aspect of the conspiracy against the Dun & Bradstreet and Arthur Prescott and Melvin Cardona, and likewise, you may not consider any such act or declaration which was in furtherance of the false statement aspect of the conspiracy against the defendants Herbert Cronin and Joseph Jankowitz.

Now, I think that makes it a little clearer to you as to what I meant earlier when I was dividing those two groups.

Now, during the course of Mr. Goodwin's testimony, certain FHA files were marked in evidence, and Mr.

Goodwin testified regarding certain meetings he allegedly had with Harry and/or Rose Bernstein concerning those files. Those are the files in evidence.

In addition to testimony regarding those meetings, Mr. Goodwin testified that on various other occasions during the years 1967 to 1971, inclusive, he met with Harry and/or Rose Bernstein at the offices of the Eastern Service Corporation, that during these meetings, certain appraisals which Mr. Goodwin had conducted were discussed, and that at the end of each of such meetings, Mr. Goodwin was paid some money.

I charge you that the testimony concerning these additional meetings was offered solely and received solely for a limited purpose. Such testimony -- and I am now talking about those additonnal discussions, other than the FHA files which were marked in evidence and part of this case -- Those additional meetings, as I said, that evidence, that testimony was received for a limited purpose. Such testimony does not relate to any substantive Count charging Bribery in the Indictment, and therefore may not be considered by you in determining the guilt or innocence of any of the defendants charged with Bribery on any one or more of the substantive Bribery Counts.

Those additional meetings only. Not the ones that were discussed, that the FHA files where they were offered into evidence may -- It may only be considered -- that testimony of those additional meetings -- It may only be considered if you find that testimony credible as it may bear on the question of the intent with which the payments of money charged in this indictment were made.

You may not consider that testimony against anyone other than the participants to those conversations. That is, Harry Bernstein, Rose Bernstein, and Edward Goodwin himself.

If you find that testimony credible, you may, if you accept it, consider it as bearing upon the relationship that is alleged to have existed between Edward Goodwin, Rose Bernstein and Harry Bernstein, the organization and the structure of the alleged conspiracy as it pertains to the participants to those conversations, and to their respective goals.

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THE COURT: (Continuing) That testimony was not received and I charge you, as a matter of law, that it cannot be used by you to establish the existence of the conspiracy. Nor was it received to establish the membership of the conspiracy, except as to the participants to those conversations.

Therefore, such testimony may be considered by you to the extent you find it relevant and believable, only as bearing upon any claimed arrangement among the three participants and whether they had established a continuing course of conduct.

There was other testimony that was received on a limited purpose only,and I will not talk about that now, I will get to that at another point when we discuss some substantive counts,and that had to do with the limited instruction that I gave you during the course of the trial concerning testimony received as given by Mrs. Santiago, Miss Winzinger and Miss Aery and other witnesses and then also as to Mr. Frank Fey but I will get to that at a later point.

Now, one who joins an existing conspiracy is charged with the same responsibility as if he had been one of the originators or instigators of the conspiracy. It is not necessary that all of the

named co-conspirators -- conspirator, I should say, become such at the same time, nor is it necessary that they all continue in the conspiracy until it ends. Withdrawal from a conspiracy after it has been formed and after one has become a member of it, knowing its significant terms and its illegality, and after an overt act in furtherance of the conspiracy has been committed, does not prevent one from being guilty of the conspiracy.

I just mentioned a moment or two ago that there was other testimony that was received for a limited purpose throughout the trial and I would say I would discuss it later but I think maybe while I was talking concerning the testimony of Goodwin, it might be a good point to talk about this and then if I have to refer to it, I will refer to it again.

Certain testimony was received for a limited purpose. This means, in substance -- and I think I told you all about this during the time that I gave it to you -- but this means in substance that you may, if you find the testimony credible, utilize it for some purpose but not for others.

Maybe now you will understand it in the context of the other part of my charge, that I have

already gone over. Such testimony was that of Mrs. Santiago, Miss Winzinger, Miss Aery and other witnesses who were employees of Dun & Bradstreet, Inc., about conversations they testified they had with each other or Mr. Prescott or the reporting managers -- you remember there were a couple of reporting managers there at the Hicksville office-- concerning conversations with mortgage applicants.

That testimony was not received to establish the truth of the content of any of the statements any person made in those conversations, nor was it received as evidence of any past acts. The evidence of those conversations was received solely, and is to be considered by you, on the question of the witness' own state of mind, or in the case of conversations with other employees of Dun & Bradstreet, Inc., the state of mind of the other participants in those conversations.

And at that time, if you recall, I also told you and charged you that it was not offered for and was not admissible against any of the other defendants, other than Arthur Prescott and Dun & Bradstreet. That had to do with that testimony of those particular witnesses. And then later on in the case and another

example of such testimony is Mr. Fey's testimony concerning conversations between him and other employees of Eastern Service Corporation, concerning his observations of Mrs. Kapraki's applications.

That testimony was not received to establish the truth of the content of any of the statements any person made in those conversations, nor was it being received as evidence of any past actions.

The evidence of those conversations is solely to be considered on the question of the witness' own state of mind or, in the case of conversations with other employees of Eastern Service, the state of mind of the other participants in those conversations.

I told you at that time that that testimony of Mr. Fey must not be considered by you as against the defendants Arthur Prescott, Herbert Cronin and Joseph Jankowitz.

I shall now go to the third essential element that I told you the Government must prove beyond a reasonable doubt when I told you that there were four essential elements, and that third one, that one of the conspirators thereafter knowingly committed at least one of the overt acts charged in the indictment, at or about the time and place alleged.

And while I am at it, I think I will discuss the fourth, also. The third and fourth. And the fourth was that such overt act was knowingly done, in furtherance of some object or purpose of the conspiracy as charged.

Now, if you should find, beyond a reasonable doubt, from the evidence in the case that the single conspiracy, with two objects or both, as charged in the indictment has been proved, and that during the existence of such conspiracy one of the overt acts alleged was knowingly done by one of the conspirators in furtherance of some object or purpose of the conspiracy, then proof of the conspiracy offense charged is complete and it is complete as to every person found by the jury to have been wilfully a member of the conspiracy at the time the overt act was committed, regardless of which of the conspirators did the overt act and there may be a conviction even though the conspirators may not have succeeded in accomplishing their common objective or purpose, and in fact may have failed in so doing.

The extent of any defendant's participation, moreover, is not determinative of his guilt or innocence. A defendant maybe convicted as a conspirator

even though he may have played only a minor part in the conspiracy.

An overt act is an act knowingly done, knowingly committed by one of the conspirators, in an effort to effect or accomplish some object or purpose of the conspiracy. The overt act need not be criminal in its nature if considered separately and apart from the conspiracy. It may be as innocent as the act of a man walking across the street or driving an automobile or using a telephone.

It must, however, be an act which follows and tends toward accomplishment of the plan or scheme, and must be knowingly done in furtherance of some object or purpose of the conspiracy as it is charged in the indictment.

Now, as I stated before, and I will repeat this once more, many times before this charge is over, the burden is always upon the prosecution to prove beyond a reasonable doubt every essential element of the entire charge. The law never imposes upon a defendant in a criminal case the burden or the duty of calling any witness or producing any evidence.

The evidence in this case as to the overt acts alleged in the indictment and designated as

Counts 2 through 65, and others on which you heard testimony, is to be considered in your determination of the guilt or innocence of the accused of the offense of conspiracy charged in the indictment.

The Government does not have to establish permanence as set forth in the indictment. Proof beyond a reasonable doubt of one such act is sufficient. I told you what an overt act is and earlier I told you what it means to act or to participate wilfully, and I am not going to redefine those words because I am sure you remember them. It is not so long ago but I will be getting to those words again later on so I will remind you in case we went too far away from the first definition but there are some words at this time which are applicable here which should be defined:

One is "knowingly to act." You have heard me use that expression, "knowingly to act," or "knowingly to omit to act." Knowingly to act or omit to act means that the act was done or there was a failure to act voluntarily and intentionally and not because of mistake or accident or other innocent reason. Knowledge may be proven by the defendant's conduct and by all the facts and circumstance surrounding the

case.

The purpose of adding the word knowingly was to insure that no one would be convicted for an act done because of mistake or accident or other innocent reason. With respect to an offense such as charged in this case, specific intent must be proved before there can be a conviction. I will come to that and I will probably repeat that a number of times, but I want you to keep this in mind, because as we go along I may tell you I did already describe what specific intent means and I will not repeat it again but I will tell it to you now in its entirety and then later on if I think it requires reminder, I'll do it again.

"Specific intent." Specific intent as the term implies means more than general intent to commit the act. To establish specific intent, the Government must prove that the defendant must prove that the defendant knowingly did an act, which the law forbids, or knowingly failed to do an act which the law requires, purposely intending to violate the law.

Such intent may be proved by circumstantial evidence, direct evidence or a combination of both direct and circumstantial evidence.

Now, earlier in my charge this morning I

described and defined these terms, namely circumstantial evidence and direct evidence, to you. And what standard to apply with regard to them.

Now, I think, since we have gone a number of hours since I told you what they are, I am going to repeat that part again, in substance anyway.

I said earlier and I repeat, direct evidence is such evidence as is given by an eyewitness, by the exhibits in evidence and by the stipulations which I spoke to you about earlier. Circumstantial evidence is the proof of a chain of circumstance pointing to the commission of the offense and I told you then, too, that the law makes no distinction between direct and circumstantial evidence, but simply requires that before convicting a defendant the jury must be satisfied of a defendant's guilt beyond a reasonable doubt from all the evidence in the case.

While witnesses may see and hear and so be able to give direct evidence of what a defendant does or fails to do, there can of course be no eyewitness account of the state of mind with which the acts were done or omitted. What a defendant does or fails to do may indicate intent or lack of intent to commit the offense charged.

In determining the issue as to intent, the jury is entitled to consider any statements made and acts done or omitted by the accused, and all facts and circumstance in evidence in the case which may aid determination of his state of mind.

Now, while reading Count 1 to you earlier, you heard me mentione"conspired to commit offenses against the U. S. in violation of Sections 1010 and 201."

Now, I read them before I read Count 1 from the books that I had before me, so I am not going to repeat them again, but suffice it to say that the conspiracy charged alleges that the defendants conspired to commit offenses in violation of those sections, which I have read to you.

Now, in reaching a verdict on the conspiracy count, you need not find all of the defendants guilty or all of the defendants not guilty. You may find all, none or some of the defendants guilty or not guilty. As stated before, the burden is always upon the prosecution to prove beyond a doubt every essential element of the crime charged.

The law never imposes upon a defendant in a criminal case the burden or the duty of calling any

witness or producing any evidence.

Now, I shall be turning my attention next to the substantive counts.

May I ask the jury a question? Would they rather call it a day after this and start fresh tomorrow morning or would they wish me to continue, to give you a chance to absorb what I have said?

If I continue, would there -- supposing I put it that way? Shall I continue? If there is no hand raised, that means you do not want me to continue? Shall I not continue? Raise your hand.

We keep going.

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JUROR NO. 4: How long?

JUROR NO. 12: Start fresh tomorrow.

THE COURT: Mrs. Coleman, I'm just wondering whether that -- and then Mr. Loschert I think -- somebody indicated he wanted to know how long. Well -- oh, it was you, was it? It could be a couple of hours more, and I think that's difficult to absorb. So I am going to close now and start fresh tomorrow morning because I will be going to the substantive counts and taking the defendants individually.

Up until now we have taken the general part of my charge, the conspiracy count, which included all, and now we will go to the particular substantive counts,

So we will recess until tomorrow morning.

Now, I am going to ask you a little favor first, before you leave. I am going to remind you first that my admonition still goes, in every aspect of it, because I am not finished, as you are aware of, and you cannot begin your deliberations until after my part of the charge is complete.

So therefore, insofar as that admonition is concerned, it's going to become increasingly important because I assume that the media knows about the fact that the evidence is complete in this case,

that the summations have been completed and the judge is charging, so they start guessing.

So please do me a favor, just don't read the paper for a couple of days. Have somebody at home pile it up for you until we finish here and then you can read it to your heart's content after.

Try to limit your reading to something other than that which would bring your attention to this case in any way or the other media that might bring this case to your attention in any other way, because it is extremely important now. It is more important because after I get through charging, as you know, and as I have already told you, I would have to discharge the alternates and we will be left with the 12 and I wouldn't want, after all of this, that something should happen to anyone of my jurors and it would create enormous problems, which I am not going to get involved in now.

But I am going to -- I have gone alone for all of these months and told you that you are going home at a certain hour and I think I have kept my word all the way through, for every purpose that was necessary, and it has worked outall right and nothing has happened to dissuade me from continuing in that course, and I shall not, because I have a lot of faith

3 in you and what you have done and I am sure you are going to do everything you can to continue right to the bitter end.

So I am going to continue that trust and that faith in you, but I think after the case goes to you for deliberation, I think you ought to be in deliberation and in discussions longer than 4 o'clock.

Now, there are several things that you might consider, and I think you should also consider Fridays, at least, if we -- because we'll be hitting Friday, I think, tomorrow. What's today? Thursday? We'll be hitting Friday tomorrow. Not tomorrow. Yes, it is.

MR. SOVIERO: Yes.

MR. BRODSKY: Tomorrow is Friday.

THE COURT: There goes my calendar for tomorrow.

We will have to consider Fridays, so the question that is in my mind is, do you want to serve to a time later than in the evening, not necessarily late at night? I don't believe in continuing until one is ready to collapse, but we might consider going out, say, to dinner at a certain hour and then coming back or continuing for a while and then going home.

Now, if we should stop for dinner, when I say,

4 "we," I am talking for you. If you should stop for dinner, say, at 5 or 6 o'clock, it is a bad time and by the time you get back to the jury room to continue deliberation, it might be 6:30, 7, maybe later. And then you put in a couple of hours, it will be 9:30 or 10 and then everything becomes a little hairy and you can't concentrate. You can't discuss this case as you must, in calm and with plenty of time to do so.

Or, you can stay say until a time that you choose yourself, 6, 6:30, whatever it is, and then we'll fold up and go home. Or any time after that.

Now, do not tell me now. What's on your mind?

JUROR NO. 3: I have one question. What "home," are we talking about? When you say, "Go home?"

JUROR NO. 2: What does "home," mean?

THE COURT: Do you want me to answer that?

Your home.

MR. BRODSKY: Touche.

THE COURT: I am not -- I know what you have in mind. Am I going to sequester you?

JUROR NO. 6: Right, yes.

THE COURT: Well, I think I indicated earlier, but I'll leave that to you, that I have faith in you, that you will go and come as we have been doing

all along, and it is my -- I think I made that clear and that's why I was driving at.

I would rather not sequester, and I am sure if I took a vote among you now, I'd catch heck in a hurry. So I am not going to do it.

I am willing to take my chances. That is why I said before the admonition becomes more important now than ever, and I have trust and faith in you, that you will keep that admonition and remember your oath, when you took it the first day, and I am willing to continue in the same course.

That's why I said, "How late do you want to stay at night before you go home," home meaning your own home.

Do you want to take a five-minute break and give me an answer? Get together and see what you say and this way we'll know what we're going to do from today on. It's early enough now to discuss that, so take a five-minute break and then let me know.

Oh, one more thing. Somebody I understand told Mr. Giusti that they have problems with their car in a parking lot or something?

JUROR NO. 2: As long as it's not overnight.

THE COURT: All right. You can talk about the other problem and come back.

6 (The following occurred in the absence of the jury.)

MR. MARTINE: Your Honor, in your charge, with regard to the conspiracy --

MR. BRODSKY: I can't hear him.

MR. MARTINE: You said the second aspect of the conspiracy was the bribery of FHA officials with intent to affect their official actions.

THE COURT: Second goal or branch.

MR. MARTINE: Mr. Cronin is in no way connected with bribery or illegally accepting any assets. He's been charged -- if I may be heard?

THE COURT: Yes.

MR. MARTINE: I think it's critical. I wouldn't even burden the Court with it at this point.

THE COURT: I think I distinguished --

MR. MARTINE: My notes reflect, your Honor --

THE COURT: I am pretty sure. Do you want me to read back my notes? I interspersed a lot.

MR. MARTINE: I think I wrote it verbatim, your Honor, if I may.

THE COURT: I am just seeing where --

MR. MARTINE: What I think the Court said --

THE COURT: All right. "Likewise, you may not consider any such act or declaration which was in

furtherance of the false statement aspect of the conspiracy against the defendant Herbert Cronin and Joseph Jankowitz."

MR. MARTINE: False statement aspect. Then you went on to say, your Honor --

THE COURT: You are not listening to me. I did the same thing as to bribery earlier.

MR. MARTINE: No. Here is what I -- your Honor, what I think the Court said, if I may, Judge? You said there was no evidence connecting Dun & Bradstreet or Prescott with the bribery aspect of the conspiracy. Likewise, there is no evidence connecting Herbert Cronin or Jankowitz with the false statements part of the conspiracy. Earlier in giving the two objects of the conspiracy, your Honor, the Court said that the second object of the conspiracy was the bribery of FHA officials with intent to affect their official actions.

You also stated, your Honor, that you cannot consider the statements on bribery aspects of the conspiracy against Cardona, Dun & Bradstreet and Prescott, and in singling out the two objects of the conspiracy, your Honor, you stressed the aspect of the bribery of FHA officials with intention to affect their official actions, and there is no bribery aspect

8 of the case in any way where the jury can consider with regard to Cronin.

THE COURT: What count am I discussing now?

MR. De PETRIS: No, you're wrong.

THE COURT: What count am I discussing now? Conspiracy.

MR. MARTINE: I'll make it at the appropriate time, your Honor, at the end of the Court's charge.

THE COURT: I am trying to figure out what you are talking about.

MR. MARTINE: I'm sorry, your Honor. I'll wait until after the charge. Thanks for your patience.

THE COURT: I talked about the bribery aspect, that's right. Mr. Martine.

MR. MARTINE: I'm sorry.

THE COURT: At one point I said, "There is no evidence in this case connecting the defendants Dun & Bradstreet, Arthur Prescott and Melvin Cardona with the bribery aspect."

MR. MARTINE: Nor is there with Mr. Cronin.

MR. De PETRIS: The contrary, your Honor, there is.

THE COURT: I think I know what you are driving at. The answer is, you save it for the end of the charge.

MR. MARTINE: I will. O.K.

THE COURT: Because, Mr. Martine, when I get to the substantive counts, I will be talking about your particular defendant.

MR. MARTINE: Fine. Thank you.

MR. M. KLEIN: Are we excused, Judge?

THE COURT: No, you are not excused. We are waiting for the jury.

MR. McEVOY: Can we take a small break?

MR. WALL: Can I stand by the door and come in?

THE COURT: Use this door, will you?

MR. WALL: O.K.

MR. BRODSKY: Smoke fast.

MR. M. KLEIN: Your Honor, my client would like to use the lavatory. Can he be excused momentarily?

THE COURT: Surely. We will stand at ease for a few minutes.

(Recess taken.)

FL:ss 4pm1

THE COURT: I'm going to ask you a question that I will be asking you at the close of the case: "Have you arrived at a verdict?"

THE FOREMAN: No.

THE COURT: And while I'm on that, I'm going to be telling you at that time that no one is supposed to know other than here in open Court when it's announced at the request of my question or Mr. Giunti's question.

So that insofar as this decision is concerned, I guess we can all know. Twelve? Fourteen? Fifteen?

THE FOREMAN: 10 to 5:30 Monday through -- 10 to 5:30 Monday through Friday.

THE COURT: All right, 10 to 5:30. 10 to 5:30 from Monday through Friday, that's okay with me. And if that makes you happy it makes me happy, and we all know.

MR. MROSKY: It makes us all happy.

THE COURT: We can all make our arrangements insofar as our respective calendars are concerned.

MR. MROSKY: Thank you.

THE COURT: All right, then there being no further business, because I've already advised you of the admonition -- And please keep it in mind,

and remember that you will go home every night, and there might be some temptation by some idiot to try to approach you in any way. I don't preach tohave a gun, but I prescribe something that will have the same effect, a good bolt.

But don't get involved in anybody's ideas or anybody's thoughts. Don't let any armchair general tell you what to do or how to consider this case. That's going to be your job.

And it's going to be your job together in the presence of each other. That's very important, because anything that is said or done by anyone not in the presence of the others, is certainly not the way to decide this case.

So when the time comes that you will be deliberating you will be told that nothing is to transpire, even during your deliberations, unless and until every one of you is present, so that should a morning come along when one or the other may be a little bit late, for some real good reason -- there will be no late ones after this -- but for a real good reason, you don't start the deliberation until all the jurors are in. Mr. Giusti will be taking the attendance every day, and he'll let me know when I can say to you "Now you

3 can deliberate."

Okay, you are excused until tomorrow morning at 10 o'clock.

(Jury out.)

THE COURT: To comply with the rules of our marshal's office I'm going to ask all of you to remain just long enough for the marshals to do their duty and get everybody out. So if you don't mind we'll just stay at ease for a few minutes.

MR. OBERMAIER: Judge, this may be premature, but I think I would object to the failure of the Court to secuester the jury during the course of deliberations. It may be premature because I think the jury would consist only of the twelve, and the alternates are still here, so I don't want to make any motions now. I'm just saying I will object to the Court allowing --

THE COURT: Have you made a motion to sequester?

MR. OBERMAIER: I think I have made motions to sequester, yes.

THE COURT: Not in the last day or so?

MR. OBERMAIER: No.

THE COURT: Because I kind of come to that myself, and no such motion was made.

MR. OBERMAIER: I don't think it's my obligation to move. I mean I --

THE COURT: No, but --

MR. OBERMAIER: Your Honor told us at a side bar, or actually it was in your Honor's chambers, that you wouldn't sequester.

THE COURT: That's right. I don't remember when I said that, but I do have knowledge of the fact that very recently, within the last few days, I indicated to somebody that I would not, that I would continue --

MR. OBERMAIER: Yes sir, that was my understanding, that you would not.

THE COURT: In other words, you just want to object to my not doing it?

MR. OBERMAIER: No, I want to object to your Honor allowing this jury to separate once the case is given to them.

THE COURT: Oh, you mean during the course of the deliberations?

MR. OBERMAIER: Yes, once the deliberations begin. I think that's what the cases require me to do, and that's all I'm doing.

THE COURT: I'll take issue with that last sentence. But I'm not going to. I'm going to

trust in the way we've been going up to now and hope to God that nothing will happen.

Okay.

MR. PROSKY: Judge, will you -- I'm off the record.

(Discussion off the record.)

THE COURT: What's the matter, Mr. DePetris?

MR. DE PETRIS: I was just going to make another -- a suggestion, your Honor.

THE COURT: Sure, on the record.

MR. DE PETRIS: On the record. With respect to the jury. And that is if your Honor does intend to let them go -- since your Honor is not intending to sequester the jury, and if your Honor is intending to let them go at 5:30 every day, which in the government's mind would be a little bit early, we would ask that perhaps instead of sending them out to lunch every day, which could take up to two hours, like it did today --

THE COURT: You mean have sandwiches brought in or something?

MR. DE PETRIS: Sandwiches brought in.

THE COURT: I'll be glad to consider that. In fact I'll have Mr. Giusti tomorrow morning, maybe to the marshal, feel them out as to whether they

want to. If they want to, that's okay with me.

I admit if they go out to lunch as a group it's going to take longer than an hour.

MR. DE PETRIS: It took almost two hours today.

THE COURT: I was going to say it took almost two hours today.

MR. MC EVOY: What do you do when they say no, they want to go to lunch?

(Discussion off the record.)

(Whereupon, at 3:50 p.m. the trial was adjourned to the following day, Friday, June 14, 1974 at 10 o'clock a.m..)

* * * *

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

-against- :

HARRY BERNSTEIN, ROSE BERNSTEIN, EASTERN SERVICE CORPORATION, HERBERT CRONIN, FLORENCE BEHAR, DUN & BRADSTREET, ARTHUR PRESCOTT, MELVIN CARDONA, JOSEPH JANKOWITZ, : 72-CR-587

Defendants. :

----------x

United States Courthouse
Brooklyn, New York

June 14, 1974
10:30 o'clock a.m.

B e f o r e:

HONORABLE ANTHONY J. TRAVIA, U.S.D.J.

and a Jury

WINFRED D. LEWIS
OFFICIAL COURT REPORTER

C 407

Appearances:

DAVID G. TRAGER, ESQ.,
United States Attorney
for the Eastern District of New York

BY: ANTHONY ACCETTA, ESQ.,
RONALD dePETRIS, ESQ.,
-and-
GEORGE BASHIAN, ESQ.,
Assistant United States Attorneys

ABRAHAM BRODSKY, ESQ.,
Attorney for Harry Bernstein

JOSEPH P. SOVIERO, JR., ESQ.,
Attorney for Rose Bernstein
-and-
LOUIS BERNSTEIN, ESQ.

ANDREW T. McEVOY, ESQ.,
Attorney for Eastern Service Corporation

BODELL, GROSS & McGOVERN, ESQS.,
Attorneys for Herbert Cronin

BY: LOUIS MARTINE, ESQ.
Of Counsel

RICHARD I. ROSENKRANZ, ESQ.,
Attorney for Florence Behar

(continued next page.)

Appearances: (Cont.)

WHITE & CASE, ESQS.,
Attorneys for Dun & Bradstreet

BY: OTTO G. OBERMAIER, ESQ.,
-and-
JOHN McAVOY, ESQ.,
Of Counsel

PATRICK WALL, ESQ.,
Attorney for Arthur Prescott

IRVING J. KLEIN, ESQ.,
Attorney for Melvin Cardona

BY: MICHAEL R. KLEIN, ESQ.,
Of Counsel

BOOTH, LIPTON & LIPTON, ESQS.,
Attorneys for Joseph Jankowitz

BY: ALLEN LASHLEY, ESQ.,
Of Counsel

(The jury entered the jury box.)

THE COURT: Good morning.

Before we start this morning I want to indicate to the lawyers, who are concerned of course, that this morning I asked Mr. Giusti to get a so-called order list for lunch for the jury, and he got his usual responses, and lunch will be ordered for the jury at 12:00 o'clock, for them to have lunch. So we'll stop for lunch at about 12:00, and they will have their lunch, so that we won't have too long a break, and I'll have an opportunity to complete my charge that way without delaying it too much.

So we'll close for lunch at about 12:00 o'clock or at the time immediately before then if I get to a certain section of my charge, and then the rest of us will take our usual lunch hour at that time.

Now, ladies and gentlemen of the jury, first of all I want to say good morning, and then we'll proceed with my charge.

I understand that Mr. Accetta had an unfortunate occurrence in his family and he will not be present this morning, and we hope that little problem that he has there will resolve itself very nicely. I'm sure it will.

So we'll proceed with Mr. DePetris and

Mr. Bashian representing the Government, is that correct?

MR. DE PETRIS: Yes, your Honor.

THE COURT: Okay, let's go.

Yesterday you will recall that I got to that part of my charge where we were going to begin my charge with regard to substantive counts, and that's where I intend to begin at this time, if I can find my glasses.

Okay. Now, keeping in mind of course that every part of my charge, including all that we had yesterday, is to be considered by you as a whole, so we'll proceed with that understanding that this is a continuation of what I started yesterday. We shall now proceed --

MR. BRODSKY: May I respectfully ask your Honor to please keep your Honor's voice up a little.

THE COURT: Oh, I'm sure you will be able to hear me from now on in.

MR. BRODSKY: Thank you.

THE COURT: The reason I kept my voice low --

MR. BRODSKY: That's better.

THE COURT: -- is because I was just talking to the jury, more or less, and I had thought everybody

would hear me, to bring them up to the point where we start today.

MR. BRODSKY: Thank you.

THE COURT: All right, we shall now proceed to the substantive counts.

Now, for no particular reason other than an effort to make it easier, I shall not discuss each defendant in the order in which they are named in the indictment and the order that we have followed throughout the trial. Rather I shall discuss them in groups.

First I shall discuss Mr. Cronin, and then Mr. Jankowitz, they being the FHA employees.

Next I shall take up Dun & Bradstreet and Arthur Prescott, they being the credit reporting agency and the director of the Hicksville office of Dun & Bradstreet, Inc., respectively of course,

And then I shall discuss the other five named defendants, Mr. Harry Bernstein, Mrs. Rose Bernstein, the Eastern Service Corporation, Mrs. Florence Behar and Mr. Melvin Cardona, the individuals being in some way associated with the Eastern Service Corporation, and they I will take up as a group.

Now, so that it will also be easier for you to

follow, and since not all nine defendants on trial are named in each of the 63 counts, the substantive counts -- and at that point I might stop for a minute; yesterday you recall I said 64 being overt acts, 2 through 65; they remain the same, being the same, so that we talk about 64 overt acts, but if you recall, I also told you that count 11 you did not have to concern yourself with Dun & Bradstreet and Arthur Prescott in the substantive counts, so that we will now be talking about 63 substantive counts.

Now I may start again with that phrase so you will get the current of thought of what I was talking about: I should in order to make it easier for you to follow, and since not all nine defendants on trial are named in each of the 63 counts, and since some of the nine defendants on trial have been severed in the counts, even though they are charged, I will give you when the time begins for your deliberation a set of papers which, for the want of a better definition, I shall call a memorandum of jury verdict. Now, in that memorandum which I already marked but will tell you that I am marking Court Exhibit 24, which is to be returned by you to me at the end of the case, you will find in this memorandum of jury verdict that it is

really the indictment in this case, but I put one count on each page except the first, which was longer than one page, but all the other counts are on one page, and then under each count I put the name of the defendant with whom you shall be concerned insofar as guilt or innocence is concerned, and then alongside of each name I put the word "guilty," space for a check mark, or "not guilty," space for a check mark. And that pertains throughout the entire 63 substantive counts -- of course it will be 64 because the 11 will be used as an overt act, and then in 11 I just crossed out the names of Dun & Bradstreet and Prescott in the lower portion, so that you will know that you don't have to concern yourselves with the guilt or innocence of either of them in that particular count.

But at the same time it will be a word for word wording of each count in the indictment, so that you will have at your command the entire count as it appears in the indictment, so that you can read it, and this way when I refer to counts I may refer to five or six or seven or ten counts at one time. And you can refer back to those ten, or twelve, or whatever it happens to be.

Now, at the same time I will be giving you

another set of papers which I have already marked Court Exhibit 25, which is really a single page for each defendant who is on trial, and at the time of each of those pages I put the name of the defendant on trial, and then I have columns, and each of the columns is headed by the section under which that defendant may be charged.

By taking the first one I get the name of the defendant, and then under the name I have three columns, 371, which is the conspiracy count, and section 1010 and 2, which are the false statement counts, and then 201(b)(1) and (2), which are the bribery counts, and under each of those sections I give you the number of the counts, so that each page will tell you where in the indictment that particular thing is charged, so that you will have a ready cross-reference for both, and it is only for that purpose that I do this second part, which I call Exhibit 25, because if you were to go through each of the 65 to find out that name of the defendant it would take a lot of time, and you would have to go through each one to make sure that that's the one I am referring to, whereas here you have Section 201(b)(1) saying the first count under that column is 29, so you go to

Count 29, so that it gives you an opportunity to use it both as an index and it gives the opportunity to have it as the actual indictment reads, and thirdly it gives you an opportunity to be able to -- at the bottom of each count as you are deliberating, if you come to any conclusion as to any count as to the particular person, you can put down guilty or not guilty as you may find as you go along, and then at the end of that -- because at the end of my charge I will tell you that when you come back to return a verdict Juror No. 1 will be asked to respond to questions by the Clerk, and he will ask him such as "How do you find the defendant so-and-so on Count One? And on Count Two? And on Count Three?"

He has to go all the way down. I don't care who it is, he isn't going to remember what he said without referring back to something, so he can just follow through.

As he is asked, I'll give the Clerk or myself a copy of this, so that when he is asked that question all he has to do is go page to page and ask them, saying "How do you find the defendant so-and-so on Count 1?"

So he will go to Count 1 and say so-and-so,

and then he will go down to Count 2. And we'll take each defendant separately as we go along and each count as we go along, and it will make it that much easier, and all he has to do is refer to this one paper, and he'll be able to answer it as is necessary. And that will be given to you when you start your deliberations.

(continued next page)

2 notes
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Now, as I indicated while I was describing these exhibits to you and in words previous to that, that I included in my charge, I told you that I shall start first with Mr. Herbert Cronin, the defendant, and then with Mr. Joseph Jankowitz, the defendant. Now, we'll start with Mr. Herbert Cronin.

Now, the following counts: 40, 43, 45, 47 49, 52, 54, 56, 58, 60 and 64 each charge the defendant Herbert Cronin with a violation of Title 18 of the United States Code, Section 1010. Now, these eleven, which is what they total, these eleven substantive counts and the conspiracy count, count number one, are the only counts in which Mr. Cronin is charged with an offense insofar as this trial is concerned.

Now, to avoid reading each of the eleven counts and risking being overly -- overly repetitious, I charge you that each of them are identically worded, and each charges a violation of the same section of the law, section 1010, except that in each of the eleven counts the date of the alleged occurrence and the address of the property involved is different. Other than the date and the property they are identically worded, each of the eleven.

Charge of the Court

You will have, of course, the indictment by way of this exhibit which I talked to you about, which you can see for yourself as you deliberate as to each of these counts, and here again, that sheet that I told you concerning -- which is marked Court Exhibit number 25, under Mr. Cronin's name, you will find the same charges that I just told you about, that he is charged with under the column headed 1010 under his name.

Now, I shall for the purpose of the charge, as I say, without being overly repetitious and repeating each one, which would just change a date or the place of the property, I shall read the first of these eleven that are the ones that we will be concerned of, and the first of these eleven is forty, count forty.

Now, count forty reads as follows -- I will read at least this one to you and then you will have the other with the only exceptions being the date, so that you will be able to refer back to the indictment, and you will know that each of them is identical except for those two exceptions:

Count forty: "In or about October 1967 within the Eastern District of New York, the

defendant Herbert Cronin, for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue excessive mortgage insurance, knowingly and willfully overvalued a security, namely real property, on an application for mortgage insurance on property located at 190 Adelphi Street, Brooklyn, New York." And that charge is brought under, as I indicated to you a few minutes ago, under Title 18, United States Code Section 1010.

Therefore each of the eleven substantive counts charged the defendant Herbert Cronin with a violation of Title 18, United States Code, Section 1010, and each are to be considered separately by you and a decision must be rendered by you on each count. That section that charges the violation, Section 1010, states in part -- now you recall yesterday I read the whole section to you and then I also told you that in referring to the substantive counts I would tell you which part of that substantive count is relevant and pertint to the particular counts, and I will do that to start off with here.

That section, 1010, states in part, pertinent to this case, these eleven counts and this defendant,

as follows. Section 1010, which is entitled, as I told you yesterday, Department of Housing & Urban Development & Federal Housing Administration: "Whoever for the purpose of obtaining" et cetera, et cetera, "or for the purpose of influencing in any way the action of such department" -- that's the Housing & Urban Development -- "Makes" et cetera, et cetera, "Or willfully overvalues any security shall be guilty of an offense against the laws of the United States."

Now, I charge you that the term security as used in that section that I just read includes real property. Now, the essential elements of each of these eleven counts, each of which the Government must prove beyond a reasonable doubt as you consider each of the eleven substantive counts are: One, that Mr. Herbert Cronin overvalued a security, namely real property, on an application for mortgage insurance on property located at -- and of course the date and the address of the property differ in each of the eleven counts, but it's namly real property -- on an application for mortgage insurance on property located at so and so and at -- the date, so and so.

"Two, for the purpose of influencing the FHA to issue excessive mortgage insurance. Three, doing such acts knowingly and willfully."

Now, first I think it becomes necessary to define the meaning of certain terms as used in the section of the law and in the essential elements which I just gave you, namely the three.

The first word, knowingly, that I think should be defined and described first. Knowingly, knowingly means that the act was done voluntarily and intentionally and not because of mistake or accident, or other innocent reason. Knowingly may be proven by the defendant's conduct and by all the facts and circumstances surrounding the case. The purpose of adding the word knowingly was to insure that no one would be convicted for an act done because of mistake or other innocent reason.

Next, the word that should be defined is willfully. An act is done willfully if done voluntarily and intentionally and with the specific intent to do something the law forbids or with specific intent to fail to do something the law requires to be done, with bad purpose either

to disobey or to disregard the law.

The next words that ought to be defined to you are the words, "Intent to influence."

The words, "Intent to influence" almost define themselves. To act with an intent to influence means to act with a specific intent to affect or to have an effect on the conduct of another. Here Mr. Herbert Cronin, it is alleged, overvalued a security, namely real property, on an application for mortgage insurance for the purpose of influencing the FHA of HUD to issue excessive mortgage insurance.

Now, the evidence need not establish that the FHA was actually influenced but only that the defendant Mr. Cronin acted with the intent to influence.

Now, the next word that I think requires definition is the word overvalue. Now to overvalue real property means to set too high a value on the property or to set an excessive value on the property.

In my definitions as I have given them to you up until now, I used the word specific intent, and that's important. Because in this crime as it's charged it is necessary for the Government to prove specific intent.

Now, as the term implies, specific intent means more than the general intent to commit an act. To establish specific intent to commit an act. To establish specific intent the Government must prove that the defendant knowingly did an act which the law forbids or knowingly failed to do an act which the law requires, purposely intenting to violating the law. Such intent may be proved by circumstantial evidence, direct evidence or a combination of both circumstantial and direct evidence.

Now, I have described and defined circumstantial evidence and direct evidence before, earlier in my charge, and I also told you at that time what standard to apply to that evidence. But I think at this time, in view of the fact that we're beginning the substantive counts discussion, I want to repeat again:

Now, as I told you earlier in my charge, direct evidence is such evidence as is given by an eye-witness, by the exhibits that we have in evidence which will be before you, and by the stipulations that were consented to and agreed to in your presence by counsel.

Charge of the Court

Circumstantial evidence is the proof of a chain of circumstances point to commission of the offense. And again, to repeat what I said with regard to them, it is that the law makes no distinction between direct and circumstantial evidence, but simply requires that before convicting a defendant the Jury should be satisfied of the defendant's guilt beyond a reasonable doubt from all of the evidence.

Now, while eye-witnesses may see and hera and so be able to give direct evidence of what a defendant does or fails to do, there can of course, be no eye-witness account of the state of mind with which the acts were done or omitted. What a defendant does or fails to do may indicate intent or lack of intent to commit the offense charged.

Therefore in determining the issue as to intent, the jury, you, is entitled to consider any statements made and acts done or omit by the accused, and all the facts and circumstances in evidence in the case which may aid you in determination -- in the determination of his state of mind, including similar and prior acts, if any have been proved in

this case, as to the defendant Mr. Cronin.

Now, the defendant Mr. Herbert Cronin -- he was chief underwriter for the Hempstead office of the Federal Housing Administration -- is alleged to have committed the offense of overvaluing real property in violation of Title 18 of the United States Code, Section 1010, through the improper use of the chief underwriter's prerogative.

Now, the instructions as to this prerogative are set forth in the instructions, I think the section was entitled number 72304.2 of the FHA Underwriting Handbook, which has been referred to many times throughout the course of this trial, and which you will have, because it is in evidence, and part of one of the exhibits in evidence, but even though it has been referred to, I think it necessary for me at this time in this context to again read it to you.

Now, pursuant to that section, the chief underwriter -- and I am going to quote now "May amend, modify or correct any of the findings, including the ratings of individual risk features to complete the conclusions which in his judgment are proper.

Charge of the Court

"However, his authority to raise value estimates is limited to $500 or 3% of the chief evaluator's approved evaluation, whichever is the lesser. This authority shall not be exercised more than once in connection with any one property prior to issuance of the proposed mortgage."

And then it goes on to say, "Authority to raise valuation is given to the chief underwriter as a matter of policy and does not involve valuation techniques. He may therefore raise a valuation even though the valuation report has been limited by the estimated replacement cost of the property. The authority is given primarily to expedite processing, through elimination of counter proposals in cases where the differences in the amount have applied for and the amount of the commitment permissible under the valuation report is such that either figure would be regarded as an acceptable, reasonable and accurate estimate by well informed, competent individuals who have no interest in the transaction or the parties thereto."

(Continued on the next page.)

This authority may be used by the Chief Underwriter at his discretion with due regard to the Commissioner's interest for reasons other than expeditingprocessing if in his opinion it s use is warranted.

Now, you have heard in this regard the testimony of Milton Francis. You will recall when I gave you the list of witnesses I told you he was from Washington, from the Housing and Urban Development Department, who is, as he testified, presently the director of the single family underwriting division of the Federal Housing Administration. He testified concerning these instructions and also gave his opinion as to the use of the Chief Underwriter's Prerogative.

Now, here I am going to ask you -- I would ordinarily say you remember what I said about opinion evidence yesterday and I think a little reminder now is important in view of the fact that this is the first time that we begin a discussion of the substantive counts.

As I told you earlier in my charge regarding opinion evidence, the rules of evidence ordinarily do not permit witnesses to testify as to opinions

or conclusions. An exception to this rule exists as to those whom we call expert witnesses, witnesses who by education and experience have become expert in some art, science, profession or calling, may state an opinion as to relevant matters in which they profess to be expert and they also state the reasons or their reasons for the opinion.

Now, you may consider an expert opinion received in evidence in this case and give it such weight as you may think it deserves. If you find or should decide that the opinion of Mr. Francis is not based upon sufficient education and experience, or if you should conclude that the reasons given in support of the opinion are not sound, or that the opinion is outweighed by other evidence, you may disregard the opinion entirely. If you decide that the opinion of Mr. Francis is based upon sufficient evidence and experience and if you decide that the reasons given in support of the opinion are sound, then you may find that the Chief Underwriter's prerogative was improperly used by Mr. Cronin and that the property in question was over-valued because that's what he stated was his opinion.

Now, in this regard also, while I am at this point, you remember that the Court received in evidence a chart which was marked government exhibit number 234, and then a rough draft of that chart, which was marked exhibit 234-A, that that chart related to some 1050 FHA files and it was introduced and received by the Court for a limited purpose.

Now, bear in mind my charge which I gave you earlier regarding charts. The chart indicates that Mr. Cronin used the Chief Underwriter's prerogative 117 times in those 1050 files; 112 times for the Eastern Service Corporation; 3 times for United Institutional; and 2 times for miscellaneous mortgagees.

You may consider that chart only on the question of whether a relationship existed between Mr. Cronin and the Eastern Service Corporation.

Now, of the 117 files in the chart in which it was indicated that Mr. Cronin used the Chief Underwriter's prerogative of those 117 files, 20 of those files are in evidence. As to those 20 files it is a question of fact for you to decide whether based upon all the evidence the Chief

Underwriter's prerogative was properly or improperly used. As to the remaining 97 -- 97 and 20 is 117, right -- as tothe remaining 97 files, there is no evidence one way or the other as to whether or not the use of the Chief Underwriter's prerogative was proper or improper. And you may not consider whether the Chief Underwriter's prerogative was properly or improperly used in those 97 files. Only in the 20 that you have before you and the evidence that you received regarding all of that including Mr. Francis' opinion.

Now, in spite of all, after considering all of the evidence -- and this should have been prefaced by the word, "however" -- however, after considering all the evidence, in order to find the defendant Herbert Cronin guilty of the offense, you must find that each of the four essential elements -- that's not it because I think I said three.

Yes, ma'am. Yes, sir. I can correct my notes as I go along. And I will start that paragraph again.

However, after considering all of the evidence, in order to find the defendant Herbert Cronin

guilty of the offense, in each of the offenses, you must find that each of the three essential elements that I mentioned earlier have been proved beyond a reasonable doubt. And as I indicated earlier to you, and I shall repeat it each time I have to, and as I stated before, the burden is always upon the prosecution to prove beyond a reasonable doubt every essential element of the crime charged.

The law never imposes upon a defendant in a criminal case the burden or the duty of calling any witness or producing any evidence.

Now, in this regard, too, remember that each of the files that have been marked in evidence, the FHA files, will be available to you and upon your request they will be sent in to you immediately. So that in all of these counts in which Mr. Cronin is being charged with offenses, remember that each of those files are available to you and you can see them for yourselves and read them for yourselves and you can also at the same time from the exhibit that I will be giving you, exhibit 24, which is a compilation of the indictment and the sheets with regard to each of them, so that you can refer to the count and the file or

any other evidence, of course, that has been introduced in this case.

And I might say at this time that if there is -- I will be telling you this later -- if there is any particular part of the testimony which you may want to hear again with regard to any particular count or any particular defendant, all you have to do is ask.

You are not entitled to the possession of the transcripts because the transcripts included side bar discussions and all that stuff which is not before you and which is not to be discussed before you. But if you tell us what it is, we can get that transcript out, that particular testimony, and have it read to you.

Now we can proceed to the defendant Joseph Jankowitz.

The following counts -- the following substantive counts -- I'm going to have to repeat that word each time -- 30 and 34 charge the defendant Joseph Jankowitz with a violation of Title 18 of the United States Code, Section 201(c)(1). These two substantive counts and the conspiracy count, Count 1, which I have already charged you is the

conspiracy count, make a total of three counts in which the defendant Joseph Jankowitz is named. That's two substantive counts plus the conspiracy count.

Now, I shall read Count 30, which is the first of the two substantive counts which I mentioned in which he is named.

Count 30 reads as follows:

On or about the 31st day of October, 1968, within the Eastern District of New York, the defendant Joseph Jankowitz, who was then and there an appraiser employed by the Federal Housing Administration of the Department of Housing and Urban Development, an agency of the United States, corruptly and directly received from Ortrud Kapraki approximately $100 with the corrupt intent and in return for being influenced in his official act as an appraiser in connection with a property appraisal at 260 51st Street, Brooklyn, New York.

And that charge, Count 30, is brought under Title 18 of the United States Code, Section 201(c)(1).

Now, Count 34, which is the second of the two substantive counts in which he is charged, is identically worded and also charges a violation of

the same section of the law, namely, 201(c)(1) of Title 18, except that the date of the occurrence and the address of the property is different. Otherwise they are identical.

(Continued on next page.)

Therefore, the two substantive counts I have mentioned, 30 and 34, and which you will have before you, charge the defendant Joseph Jankowitz separately with a violation of Title 18 of United States Code, Section 201(c)(1). And Title 18 of United States Code, Section 201(c)(1) states in part, pertinent to this case, these two counts and this defendant, Joseph Jankowitz, and you recall yesterday I read the whole of Section 201 and then I told you the parts that we would be concerned with, but when we came to the individual defendants I would zero in on that particular subdivision of Section 201. So I am going to do that now. And I am going to read the part of that section which is pertinent to this case, pertinent to these two counts and pertinent to this defendant Joseph Jankowitz.

The paragraph -- if you recall the section, rather, you will recall is entitled, "Bribery of Public Officials and Witnesses," and Subdivision C, to which we are now referring, states as follows:

C. Whoever, being a public official, et cetera, directly or indirectly, corruptly, et cetera, et cetera, receives or agrees to receive anything of value for himself, then some language, in return for, (1), which

is the 201(c)(1) that I am referring to -- (1) being in return for -- (1) being influencing his performance of any official act, shall be guilty of an offense against the laws of the United States.

Now, the essential elements of these counts, 30 and 34, each of which the Government must prove beyond a reasonable doubt, and each count is to be dealt with -- each of these counts, of course, is to be dealt with and decided separately, as I have indicated in discussion of the counts in which Mr. Cronin was charged.

The essential elements are as follows:

One, the act or acts of corruptly and directly receiving -- receiving from Ortrud Kapraki, a sum of money as alleged in the two counts by a public official.

Two, doing such act or acts with corrupt intent and in return for being influenced in his official acts as an appraiser in connection with a property appraisal as alleged in the counts on the dates alleged, because I told you the only difference between the two counts is the date and the address of the property.

Now, Section 201, if you recall, I told you

Subdivision (a) of Section 201, defines certain words in certain terms and I told you at that time I wouldn't read them then, but I would read the particular definition that is applicable as we go along as to each defendant and as to each count. And here we come to the point where for the purpose of this Section, which is 201, the words that I will describe now are defined in that section.

Now, for the purpose of this section, public official means an officer or employee or person acting for or on behalf of the United States or any department, agency or branch of the Government thereof in any official function under or by authority of any such department, agency or branch of Government. And then it describes and defines an official act.

An official act means any decision or action on any question, matter, cause, suit, proceeding or controversy which may at any time be pending or which may by law be brought before any public official in his official capacity or in his place of trust or profit.

Therefore, if you find that the defendant Joseph Jankowitz was at the times in question named in the respective counts, if you find that he was at those

times a public official employed by the Federal Housing Administration of the Department of Housing and Urban Development and that he performed appraisals as part of his official duties, you may find that action taken by him with respect to those appraisals are official acts.

Now, if you so find -- and you are not bound to do so -- but if you so find after considering all of the evidence in that regard, then you should determine whether or not anything of value, namely, money, was paid by Ortrud Kapraki to Mr. Jankowitz, and if you find that happened, that she paid money to Mr. Jankowitz, you should next consider whether or not the receipt of that money was done corruptly, which are the two parts of the essential elements which I have already described.

Now, I think here I ought to describe to you what the word "corruptly" is defined as in the context of this case.

Corruptly to act. An act is corruptly done if done voluntarily and intentional and with the bad purpose of accomplishing either an unlawful end or result, or unlawful end or result by some unlawful method or means.

So a person acts corruptly whenever he receives money knowing it to be paid as a wilfull attempt to persuade or influence his official action as a public official.

The motive to act corruptly is ordinarily a hope or expectation of either financial gain or other benefit to oneself or some aid or profit or benefit to another. If you find that the money was corruptly received by the defendant Joseph Jankowitz in his capacity as an FHA appraiser, then in order to find him guilty of an offense under Section 201(c)(1), you must further find beyond a reasonable doubt that the money was received by him with the intent to be influenced in his official acts as an appraiser, which is again part of the essential elements.

Thus, you are called upon again to determine what was in the defendant's mind and the purpose which motivated him in his conduct.

Now, direct proof is rarely available to establish intent. Like any other facts, it may be proved by circumstantial evidence and by statements and actions of the persons involved in that transaction.

In considering the words, intent to be influenced,

that part of the essential element of the offense, you must consider the evidence with respect to each count independently.

In other words, each count must be considered independently as to the use of the words intent to be influenced.

Now, although the Government must prove beyond a reasonable doubt that any payment corruptly received was received with the intent to be influenced in his official action as an FHA appraiser by Mr. Jankowitz with respect to matters then before him or which would come before him, it is not an element of the crime that the Government need -- and the Government need not prove in any way that Mr. Jankowitz was in fact corrupted or that he changed or altered his actions in any way or performed any service or favor in return for the money.

In this phase of the case, that of bribe, bribe receiving on the question of intent to influence, the Government need only prove that something of value was received in return and for the purpose of, and with the intent of being influenced in an official act.

Therefore, it makes no difference whether the

acts intended to be influenced were in fact influenced or that the object of the bribe could not be obtained or was not obtained, or that the act, if it were done, it turned out that there had been actually no need or occasion to seek to influence any official conduct. It is the corrupt receiving of money with intent to be influenced in an official act that constitutes the offense.

Thus, in this case, if you find that money was corruptly received by Mr. Jankowitz with the intent to be influenced in an official act, you need not find he did anything wrong or was in any way in fact influenced by the payment in order to find guilt.

Now, considering the guilt or innocence of a defendant who is accused of receiving a bribe, it also makes no difference that the object of the bribe -- that is, the acceptance of houses for a conditional commitment or the placing of a value on real property for FHA mortgage insurance purposes is in itself a lawful activity. The purpose of the law is to protect the integrity of the official acts against the possible temptation to act in other than a proper manner which may result from the payment of money to influence such an official act.

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Charge of the Court

Here again the crime charged against Mr. Jankowitz requires proof of specific intent before he can be convicted.

Now, I have already defined the term specific intent while discussing the conspiracy count, and again when I discussed the substantive counts as to Mr. Cronin, and I am sure I need not do it again now.

However, I shall later in my charge repeat the definition of specific intent and define those words in order to remind you as we go along of the meaning of those words.

Now, Section 201 -- and in this regard, again, remember, as I have repeated so many times, that the burden is on the government to prove guilt beyond a reasonable doubt as to each essential element of the crime as charged and the burden never shifts to a defendant, and the defendant need not and is not required to produce any evidence or offer any witnesses in his own behalf in this case.

Now, you recall yesterday when I read Section 201 to you and 201(b)(1) and 201(c)(1), I also read two other subdivisions, 201(f) and 201(g),

which at that time I told you are what we call lesser included offenses.

Now, in this regard, as we speak of the counts against Mr. Jankowitz, the subdivision which will pertain of (f) and (g) that I discussed yesterday is 201(g).

Now, Section 201, which is the section under which Mr. Jankowitz is charged with bribery, also provides in subdivision (g), which you may or may not find applicable in this case. Section 201(g), which I told you yesterday I will repeat when we get to it, provides in relevant part as follows:

Whoever, being a public official otherwise than as provided by law, for the proper discharge of official duty, indirectly or directly -- I suppose I should reverse the order of those two words -- directly or indirectly, receives anything of value for himself or because of any official act performed or to be performed by him, shall incur the penalties of law, etcetera, etcetera.

I will tell you the difference as we go along between 201(g) and 201(c)(1). But for the moment let me stay with this subdivision which I

just read.

Now, so far as this subdivision is concerned, I must tell you of the essential elements required to be proved by the government so far as this subdivision is concerned.

Now, there are two essential elements that must be proved beyond a reasonable doubt in order to establish a violation of Title 18 United States Code Section 201(g).

Now, of course, as I told you before, that applies to each count. First, the receipt of anything of value by a public official otherwise than as provided by law for the proper discharge of his official duty.

Second, that the receipt of anything of value by the public official before or because of any act performed or to be performed by the public official.

Now, in order to find a violation of this 201(g) section, you need not find that a receipt of money was made with any intent by the public official to be actually influenced in the performance of any official act. It is criminal for a public official to receive a sum of money which he

is not entitled to receive regardless of his intent with respect to that payment.

This factor is what distinguishes 201(c)(1) from Section 201(g). And Section 201(c)(1) you will recall as I have instructed you, you must find that the public official had a specific intent to be influenced in the performance of his official act.

In order to prove a violation of Section 201(g), it is not necessary to find any such specific intent, nor is it necessary for the government to prove that the payment was received corruptly. The purpose of Section 201(g), which is called, as I indicated before, a lesser included offense of Section 201(c)(1), is to prohibit a government employee from the course of his official duties from receiving additional compensation or a tip or a gratuity or because of an official act done or about to be done.

The gift is a violation even in the absence of evidence that the giver sought a particular preference or that the receiver gave one. Even though specific intent is not necessary, you must nonetheless find that the receipt was done knowingly

and purposely and not through accident, mistaken, inadvertence or misunderstanding.

The government must prove that the purpose of receiving the gift is to receive additional reward, gratuity or tip by reason of an official act performed or to be performed by the public official.

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THE COURT: (Continuing) Again, to repeat, it is not necessary under this section that the Government prove that the gift caused or prompted or affected the official act or the extent or the manner or means by which the official act was done.

But at the same time you must be satisfied beyond a reasonable doubt that the gift was received as an additional reward for the performance of some official act.

If you find beyond a reasonable doubt that the defendant Joseph Jankowitz received payment of money in either or both of the counts in which he is charged, you should next consider whether or not the receipt of such payments is, first, a violation of 201C-1 or a violation of Section 201G, bearing in mind the differences in the essential elements of each offense as I have described them to you already.

In your deliberations, you should proceed in the same manner I indicated to you earlier, with the bribe paying counts. Thus, first you must determine the guilt or innocence of the defendant on the count charged in the indictment which alleges a violation of Section 201C-1. Only if you are not convinced beyond a reasonable doubt that the defendant Joseph

Jankowitz is guilty of violating that section of the law will you then go on to consider whether the defendant is guilty beyond a reasonable doubt of a violation of the lesser included offense, which I have described to you, namely, a violation of Section 2010.

Now, æ stated to you several times, and as I shall keep saying to you, as stated before, the burden is always upon the prosecution to prove beyond a reasonable doubt every essential element of the crime charged.

The law never imposes upon a defendant in a criminal case the burden or the duty of calling any witness or producing any evidence. And here again, all of the files, or the files, whatever number you recall were testified to, will be available here and you can see each of the files that relates to each of these counts.

You can read them and you can look at them and you can examine as you consider and deliberate as to each of these two counts.

I am now going to proceed as to the defendants Dun & Bradstreet and Arthur Prescott. Since that will go beyond and into the lunch hour, and rather than break in the middle of a section of my charge, I am going to recess for lunch now and as soon as

whatever Mr.Guisti ordered is delivered, you may enjoy it.

We shall return in approximately an hour. We will adjourn for lunch until 1:15.

Ladies and gentlemen, remember the admonition goes with you wherever you go and until such time as I tell you to being your deliberations.

Therefore, please keep an open mind and I will see you at 1:15. Enjoy your lunch.

(Luncheon recess.)

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1 AFTERNOON SESSION (2:25 p.m.)

THE COURT: O.K., are we ready to proceed?

I told you before we recessed for lunch that we would next proceed to the defendants Dun & Bradstreet and Arthur Prescott. Now, these defendants, together with the Eastern Service Corporation, are charged with ten substantive counts alleging violations of the United States Code, Title 18, Section 1010 and Section 2.

These ten counts are in addition to the conspiracy count in which each is charged, and which I have already discussed, total 11 counts, and the only counts in which they are named in the indictment now on trial.

The defendant Eastern Service Corporation has been severed as to each of these counts for reasons that I originally told you in the early part of my charge. Therefore you will be concerned with the guilt or innocence of the defendants Dun & Bradstreet and Arthur Prescott in each of these ten counts.

Bear in mind that each of these defendants is to be treated separately on each count, and a separate decision is to be made by you as to each and on each count.

I talk to you about both at this time because

each of the ten counts are identical, except to the date and the property mentioned, and involve both defendants. You will have a copy of the indictment, as I have indicated to you before, and you can see and read each of the counts for yourself.

However, the counts, in addition to Count One, that we will now discuss are Counts Three, Six, Eight, 13, 15, 19, 22, 24, 26 and 32.

I shall read Count Three, which is the first of the ten that I have just enumerated. Count Three states as follows:

"On or about the 15th day of November 1968 within the Eastern District of New York the defendant Dun & Bradstreet, Inc., its employee the defendant Arthur Prescott, and the defendant Eastern Service Corporation did knowingly make, pass, utter and publish false statements in a credit report for the purpose of influencing the Federal Housing Administration of the Department of Housing and Urban Development to issue mortgage insurance on property located at 440 41st Street, Brooklyn, New York," and that charge in Count Three is made under Title 18 of the United States Code, Section 1010 and Section 2.

Now, the other counts, Counts Six, Eight, 13, 15, 19, 22, 24, 26 and 32, are identically worded, and

each charges a violation of the same section of the law, except that the date alleged and the property location alleged differ.

Therefore the ten counts I have just enumerated charge the defendants Dun & Bradstreet and Arthur Prescott and the defendant Eastern Service Corporation with a violation of Title 18, United States Code, Section 1010, and Title 18 of the United States Code, Section 2.

Now, Title 18 of the United States Code, Section 1010, states in part pertinent to this case, to these ten counts, and to the defendants Dun & Bradstreet and Arthur Prescott, as follows:

1010, which I told you was headed "Department of Housing & Urban Development and Federal Housing Administration transactions, "Whoever for the purpose of influencing in any way the action of such department makes, passes, utters or publishes any statement knowing the same to be false, shall be guilty of an offense against the United States."

Now, this section has nothing to do with defrauding the Government or whether or not the Government is actually defrauded. This section in this statute is pinpointed to the applications. It makes it a criminal offense to make a false statement in those

applications, knowing it to be false. It is the purpose of this statute to allow the Government officials who insure these loans to rely on the applications and representations in making a determination as to whether or not a loan should be insured under the laws.

Now I will talk to you more as we go along about an application which encompasses a number of papers which must be submitted to the FHA, and we will be talking particularly about, in this count, the Dun & Bradstreet reports, the credit report which is prepared by Dun & Bradstreet and sent over to Eastern Service, which in turn becomes part of the package which in turn goes to the FHA.

So when I tell you what I just told you about that, it has nothing to do with defrauding. Keep that in mind for the moment.

Now, the crime has three essential elements, each of which the Government must prove beyond a reasonable doubt, and this applies to each of the ten counts and as to each defendant separately. The three essential elements are as follows: One, the making, passing, uttering or publishing of a false state on or about the time and within the place referred to in each of the ten counts;

Knowledge by the defendant in question that the statement is false;

And three, a purpose by the defendant in question for the false statement to influence the Federal Housing Administration of the Department of Housing and Urban Development to insure a mortgage loan.

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THE COURT: (Continuing) Now, the first essential element of the offense is, as I indicated, the making of a false statement.

Now, of the various catogories of statements concerning which you have heard testimony you are to limit yourselves to only two catagories in determining whether the first element of the offense is met.

In the first catagory there are statements concerning employment and income therefrom and the mortgagee's certificate contained in applications for mortgage insurance, that is the credit application, the form 2900-1 that we have been talking about and the attached exhibits to that 2900 form, which Mr. Bashian talked about in his summation; and if you recall he took each one of these 2900-1 forms and spoke about each one of them. And I will come to them later.

Each of these files, which are in evidence, and the contents of each of these files, and particularly the 2900-1 form and its enclosures, you will find in each of those files in evidence and they will be available to you.

I shall discuss this catagory of statements which I have just referred to, when I discuss the

Section 1010 charges against the Defendants Harry Bernstein, Eastern Service, Florence Behar and Melvin Cardona.

The second catagory of statements which I told you that you are to limit yourself to are the statements concerning employment and/or income therefrom contained in the credit reports, and those, if you will recall, are the credit reports which Mr. Obermaier talked about to you and displayed to you on the screen and discussed each one.

If you recall, he would circle,as he went along, the statement which is alleged by the Government to be false, and he discussed that as he went along.

And I will come to those in a short while, too.

So, therefore, it is this second catagory of cases, while we are discussing Dun & Bradstreet and Prescott, it's the second catagory of false statements those contained in the credit reports, that we will be discussing during the discussion here on these two defendants about whom I am talking about now. And I will refer to each of the false statements in a short while.

Now, a statement -- and I am going to delay going into each of those statements at this time because I want to give you an idea of my charge with regard to false statements so that when I discuss each one I can say, "Bear in mind what I said about these particular flase statements."

(continued next page.)

Now a statement is false if it is untrue when made, and then known to be untrue by the person making it or causing it to be made.

As applied to the second category of statements involving charges against the defendant Dun & Bradstreet and Arthur Prescott, the defendants I am now discussing, you must determine whether or not there was any statement as to employment or income therefrom in the credit report in question, which was false at the time the credit report was completed by Dun & Bradstreet, Inc.

In this regard, you should consider the following: Section 1010 deals only with the making of false statements, not with the concealing or omission of any facts.

The statements alleged to be false in this case are contained in the top portion -- yes, in the top portion of each credit report in question. You must determine whether the proof establishes beyond a reasonable doubt that there is a false statement, a statement which is not literally true, actually contained in each credit report in question.

In determining whether or not a particular

statement is false you should consider the statement in the context of the entire report and consider whether or not the statements made or contained in the remarks section -- that's the subject states format -- whether the statements contained in the remarks section have any bearing on the truth or falsity of the statements in the top portion of the report.

In considering whether or not the statement in the remarks section has any bearing on the truth or falsity of the statements in top portion of the report you ray consider the following factors:

One, if the report as a whole makes the specific statement alleged to be false ambiguous, you should look at the meaning, if any, intended by the party who wrote report at that time the statement was made. If the party who wrote the report did not ascribe any particular meaning to the statement at the time, and if the statement is ambiguous then you should consider whether there is any reasonable interpretation which should make the statement true.

If the statement is not ambiguous you should give it the meaning which the word commonly understood conveys.

The question of what meaning, if any, was intended at the time is a question for you, the jury, to decide.

And two, you may also consider whether or not the remarks section omitted or did not disclose certain information known to the reporter. In this regard you may consider what effect, if any, the omission of such information had on the statements contained in the top portion of the report. That is whether or not such information would have refuted any statements in the top part of the report and whether or not the effect of such omission was to leave as statements of fact, any statements in the top portion of the report.

Finally, there is another factor which you should consider in determining whether or not the use of the subject states format in the remarks section has any bearing on the truth or falsity of the statement in the top portion of the report.

You should consider in that regard whether or not the practice of taking the representation of the subject as to the employment and income, reporting them in declarative form in the top portion of the report, without attempting

to verify the information, or reporting the results of any attempt to verify the information, and then including in the remarks section of the report the fact that the subject stated certain information -- you should consider whether or not this practice or that practice satisfies the obligation, and the affirmative duty, if any, the FHA program places on a credit reporting agency.

Now I shall talk to you about that, ladies and gentlemen, in a few moments.

Getting to the second essential element of the offense, and that is that the defendant knew, the particular defendant knew that the statement was false at the time it was made passed, uttered or published. In determining whether a corporation such as Dun & Bradstreet Inc. is, has the requisite knowledge of the falsity of a statement in a credit report in an FHA loan application, it is necessary to show that it's corporate officers, agents or employees had such knowledge and where such knowledge is shown, such knowledge could be imputed to the corporation.

Knowledge is not something you can see with the eye or touch with the finger. It is seldom

possible to prove it by direct evidence. The Government relies as to those defendants in that regard on circumstantial evidence to establish knowledge. In deciding whether these defendants knew that the statements contained in the report were false you should consider all the circumstances, such as how these defendants handled the transactions, how they conducted themselves in the conduct of those transactions, do their actions betray guilty knowledge that they were dealing with false statements, or were their actions those of a duped or innocent person?

On the one hand one cannot be held to a guilty knowledge of the falsity of a statement simply because a reasonable man understood the same or similar circumstances would have known of the falsity of such statements.

Nor can guilty knowledge be established by demonstrating merely negligence or even foolishness on the part of a defendant.

On the other hand, it is not necessary that the Government prove to a certainty that a defendant knew the statement made, passed or uttered or published was false. Such knowledge is established

if the defendant is or the defendant was aware of a high probability that the statements in a particular credit report were false. Unless the defendant or defendants actually believed that the statements were not false.

Knowledge that the statement or statements were false may be inferred from circumstances that would convince a man or ordinary intelligence that this is the fact. The element of knowledge may be satisfied by proof that a defendant deliberated closed his eyes to what otherwise would have been obvious to him. Thus if you find beyond a reasonable doubt that a defendant acted with reckless disregard of whether the statement made, passed or uttered or published to the Department of Housing & Urban Development or the Federal Housing Administration and with a conscious purpose to avoid learning the truth, the requirement of knowledge would be satisfied unless the defendant actually believed that the statements were not false.

Now you will recall -- and I think this might be an appropriate point to say something about some of the sections which I don't recall which attorney of the Government asked the Court to take judicial

notice of certain sections, which I did, and those, of course, are sections of the law. I think one of them was Title 12, Section 1701 (t). That one I will read. It's not too long, and it refers to the section of the law that I read yesterday entitled 42 section 144, if you recall, of the National Housing Act. So that this section, 1701 (t) Title 12, refers to that. It's entitled Congressional Affirmation of National Goal of Decent Homes, and Suitable Living Requirements for American FAmilies. And it goes on to state: "The Congress affirms the national goal as set forth in Section 441 of Title 42 of a decent home and a suitable living environment for every American family. The Congress finds that this goal has not been fully realized for many of the nations lower-income families; that this is a matter of grave concern and that there exists in the public and private sectors of the economy the resources and capabilities necessary to the full realization of this goal.

(Continued on the next page.)

"The Congress declares that in the administration of those housing programs authorized by this Act, which are designed to assist families with incomes so low that they could not otherwise decently house themselves, and of other programs designed to assist in the provision of housing for such families, the highest priority and emphasis should be given to meeting the housing needs of those families for which the national goal has not become a reality. And in the carrying out of such programs, there should be the fullest practicable utilization of the resources and capabilities of private enterprise and of individual self-help techniques."

Also I was asked to take judicial notice, and I did, of certain other sections of Housing and Urban Development -- that deal with the Housing and Urban Development section of the law, particularly in Title 24, a part of the said title goes into thoroughly the eligibility requirements and approval of mortgagees. I am not going to read those particular sections because I believe there has been an understanding here throughout this entire trial that the Eastern Service Corporation is such an

approved mortgagor lendor and is one that did come within the provisions of the law therefor, and in fact they indicated that they held the so-called Eagle, which indicated that they are complying with the sections of the law. So I will not go into that phase of it because the eligibility requirements are not necessary at this time because there is a concession here that they are such an eligible mortgage lendor.

Then of course there were requests not to take judicial notice but were referred to by, I believe, the government originally and by others throughout the course of the trial, and those were particular sections of the mortgagee's handbook -- I think that was government wexhibit number 147 --

MR. DE PETRIS: Yes, your Honor.

THE COURT: Then there was also another government exhibit 145 which had to do with -- that was not part of the mortgagee's handbook --

MR. DE PETRIS: The FHA manual.

THE COURT: That was the FHA manual.

Anyway, 145 was the FHA manual and 147, which are available to you --

MR. DE PETRIS: I think it was the other way

around.

THE COURT: 145 and 147, one or the other, one is a mortgagee handbook and the other was the FHA manual. But they are both available to you and you can read all of them if you want, or any particular section that was referred to you, but you have them at your disposal. But I do want to refer to particularly to the section in the mortgagee's handbook which had to do, I think, with this case and the defendants involved in this case.

I am referring particularly to, and I have a photocopy of it, and I won't read every part of it, but I will read certain sections of it, but it is available to you and you can read it for yourselves in its entirety, if you so desire.

Section 119: "Inasmuch as the FHA derives its knowledge of the borrower largely on the statements made on theither form number so-and-so or form number so-and-so, and the supplemental statements and forms supporting such forms, it is essential that each item be correctly and adequately completed so that a decision may be reached as to the eligibility without further inquiry."

Then there is another section which I will read now because it may pertain to later counts that I will be talking about: "If the borrower operates his own business or is self-employed, a balance sheet and income statement of his business or his own financial position is required to be submitted with the form."

That is the application form.

I am reading that now so I will refer to that later without rereading it. Then as we go along in those sections we come to Section 121, and 121 reads as follows, and I won't read the entire 121 but I will refer to parts of it, but read in its entirety this first section which reads as follows:

"FHA's mortgage insurance underwriting, as related to credit analysis, does not permit as a general practice the use of many methods commonly used by other credit institutions. That is, FHA seldom has the benefit of personal interviews with mortgagor applicants or the facilities for the more extensive type of investigation. FHA, therefore, must depend heavily on credit reports and such reports must be reliable and adequate in

every respect.

"Credit reports must cover an adequate period of time and contain antecedent information from the point of previous residence, if the subject has not resided in his present location for at least two years. Reports must contain sufficient information so that the mortgagor applicants' stability and credit reputation can be determined."

I might say that this is from the mortgagee's handbook and applies to the mortgagee particularly, since it is the pages that will be part of the application that goes into the FHA that it becomes important with.

And that section goes on to say something of contract and credit reporting agencies, and we learned early in this case that Dun & Bradstreet is not a contracting reporting agency in this case, because under those circumstances, if you recall, there was testimony that the government would send out bids for the purpose of becoming a credit reporting agency for the FHA directly, and then they would go on the list as being the FHA credit reporting agency under the contract and then you could hire them. But there is nothing in

the section which prohibits a mortgagee -- not a mortgagee, but a mortgage lending institution such as Eastern Service from retaining their own credit reporting agency.

But remember, Dun & Bradstreet is not such a contracting credit reporting agency.

Then it goes on to say "The FHA will not reject applications when the mortgagee submits a credit report from other than a contract reporting agency. FHA in every such case ..." -- "FHA will in every such case confirm and supplement the credit information submitted by ordering a factual data report from its own contract source if there is any doubt as to the submitted report medium or of the specified requirements, including the required credit report form and wording. Under such conditions, FHA will not be able to order its credit report until the application has been filed and will not be able to complete processing on the case until the credit report from its contract source has been received.

"FHA is confident that the mortgagees share FHA's concern that accurate and complete credit information be available in all cases and

will make extensive use of the services available to them to improve the quality of credit information and expedite the processing of applications."

Now, it is a question of fact for you as jurors to determine from the evidence you have heard in this case -- and you have heard testimony from HUD representatives and from others, the exhibits that you will find were introduced and received in evidence, the papers from which I just read now, which the Court took judicial notice of, and the mortgagee's handbook and the FHA manual, and whatever other evidence there was, if any, in the case, is for you to determine if the FHA, of the Housing and Urban Development, places an affirmative duty on certain of the defendants in this case.

You may in making such a determination consider the regulations that have been read to you during the course of the trial, the testimony of the witnesses concerning them, the instructions concerning the applications necessary to be filed, and the papers necessary to make up the complete application. You recall they referred to that as a package, if I recall correctly.

If you find that there is such an affirmative duty, after thorough consideration of all of these factors, then the standard of recklessness, which I mentioned earlier, is applicable to the defendant Dun & Bradstreet.

You should also consider what person or persons played a role in setting the policy of the Hicksville office of Dun & Bradstreet, Inc. with respect to the investigation, content and preparation of the credit reports involved herein. And in this regard you may determine whether or not the evidence shows beyond a reasonable doubt that the defendant Arthur Prescott occupied such a position.

You may find that any person in such a position had a duty to verify that statements made in the credit reports were true. If you so find, then the standard of recklessness is applicable to such a person. Under that standard of -- the element of knowledge is satisfied by proof beyond a reasonable doubt that a defendant recklessly stated as facts things of which he was ignorant or acted with a reckless disregard of whether the statements made were true.

Now, I think at this point it would be proper for me to point out to you the factual data report or the credit report as we have heard it mentioned, both ways, that Mr. Obermaier talked about during the course of his summation, and which are the subject of the counts in which the defendant Dun & Bradstreet and the defendant Arthur Prescott are charged.

These credit reports are all part of an FHA file that is in evidence and you have the right to call for the entire file and you can get the original factual data report out of the file and look at it for yourselves and determine, based upon the charge that I have already given you, the questions that you must determine in your deliberations.

However, at my suggestion I had prepared for me, so that I could use them at this time without necessarily getting the whole 20 FHA files in front of me and putting out a factual data report in each one, I had prepared for me a photocopy of the Dun & Bradstreet factual data report from which Mr. Obermaier spoke in his summation and which is a photocopy of the original in that

file.

In each of these I had circled the statement which it is alleged by the government is false, so that I can just zero in on just that statement. But remember what I said in my charge, the whole thing you must consider and not just the one little circled statement. I am just giving it to you now in that fashion because it is easier for me to refer to what is claimed by the government to be a false statement as contained in the factual data reports. So I am going to take them in the order of their numerical sequence, which is the same order of the counts as I mentioned earlier in my charge with respect to these defendants.

The factual data report from exhibit 29 is the first one and it relates to Count 3. By the way, I am going to give you these papers that I am using, but keep in mind that I want to give them to you merely to point out to you the particular statement. But bear in mind that the whole report is important in your consideration and the whole file in that is important in your consideration. But I am going to give it to you so

that you can pull these out and then get the file and see the original and do what you have to do with regard to coming upon a proper decision in each case.

(Continued on next page.)

So that the first one, therefore, and I had them put the exhibit number and the count number so that you will be able to get to it, the first one is exhibit number 29, and it relates to count 3, and has to do with Harry Bertos Santos and the statement was -- which is alleged to be false, is contained in the upper part of the report, namely, 4B, which setates, "approximate income if any from other sources, investments, rentals, allocations or contributions," and then on the other side, "B", the answer is "$7,020." That is the statement that is alleged to be false.

I might in this context, too, tell you that when it comes to the 1010 counts as to other defendants, I will be going into the same reports that Mr. Bashian referred to in hissummation, and those statements, however, were the 2900-1 application there were appendices -- there were appendices or attached statements, and I might say that while at this time we are talking about 10 particular credit reports, Mr. Bashian, I believe, went into 18.

MR. DePETRIS: Mr. Bashian went over the 1010 reports and the 18 2900-1's.

MR. BASHIAN: I did the same 10 that Mr.Obermaier did.

Charge of the Court

THE COURT: I was going to come to that. You talked about 18 2900-1 forms, which included as parts of some ofthose 18 the same factual data reports of the Dun & Bradstreet organization, and when it comes to my talking about those 2900 reports, I will be putting at the top of that, two, the exhibit numbers, so that we will get an exhibit number 29 on one of Mr. Bashian and Exhibit 29, which is the first one I am talking about, on one of Dun & Bradstreet's-- I should say the government's, not Mr.Bashian's.

They relate to the same file, but they are talking about two different papers in that file. That was number one.

Number two that Mr. Obermaier referred to in his summation, which is the second count in the list of -- count six, I should say count six, otherwise we will call it count two, but it is the second one that Mr.Obermaier referred to, but it relates to Exhibit number 9 and relates to count 6 in the indictment.

There, too, it zeroes in on the question and answer in the upper part of the report which is 4-B, "approximate income," etcetera, if any, from other sources, and the answer on the other side, "B. $5,000"

As I told you, of course you must look at the entire report, including the remarks sections in each of those reports, in doing so.

Number three, we have count 8 and Exhibit 33. And there, too, is circled the question and answer in box 4A as to approximate income, et cetera, was yearly. It is those statements that are alleged to be false.

Then we get to count 13, Exhibit 1. These are all government Exhibits 1, 2 and 3, whatever they happen to be. There is circled two particular parts in the upper part of the report, namely, three A, B, C, D, E and F, and then 4A, and the answers with regard to both those blocks of questions. And there the 3A is the name of the employer, and then, in answer to that, it says, "self-employed." Then, "position held. Length of present connection" And the answer is, "general contractor."

"C. Is his employment here reasonably secure? C. Yes."

Then, "D. Does he work full-time steadily? If not, how many days per week?" And the answer in D, "Yes."

"Has his employment status changed within the

past two years?"

"E, is answered, "No."

"F. Has his health interfered with his progress? No."

Then we get to 4A. 4A, the annual earned income from his employment or business, and the answer is $12,000.

Then we get to the next one that relates to count 15 and is contained in the file marked Exhibit 3. There, too, two sets of statements are alleged to be false. Those in box 3 and those marked in box 4.Those in box 3 are the name of the employer, and the answer is self-employed. Position held, and the length of present connection, it says Roofer and then ten years.

C, "Is his employment here reasonably secure? Yes.

"Does he work full-time steadily? Yes.

"Has his employment status changed within the last two years?

"No.

"Has his health interfered with his progress? No.

"Four-A." This is the second box.

"Annual earned income from his employment or business." And the word, "estimated" is marked "X" and the answer to that is $9500 yearly."

The next one has to do with count 19 and is contained in the file marked Exhibit 37. There, the statement alleged to be false is one statement and it is contained in box 4, and 4B states, "approximate income, if any, from other sources," and then the answer to that is "$12,000."

The next one is count 22 and is contained in Exhibit 23. There the alleged false statements are contained in 4D, E and F, and in 4D, it asks if his wife is employed, and to give the name of her employer. The answer is, "self-employed. Position she holds. Approximate income. Dressmaker. Income, $5,000."

Then, "F, approximate number of years she has been employed. Five years."

I have neglected, as I went around, to mention the name which might have brought to your attention a little more clearly which ones we are talking about, but I will tell you at this time that this one that I just read has to do with Matos, and I will get back to the other s in a moment.

The next one has to do with count 24, and is contained in Exhibit 15, and there, too, two statement are alleged to be false, one contained in box 3 and one contained in box 4. And this has to do with Francisco Rivera.

The statement alleged to be false is in 3B, where it says, "length of present position." And the answer to that was five years."

Then going down to 4, 4A, "annual earned income from his employment or business. $12,000."

Then the next one has to do with count 26 and is contained in Exhibit 17 and refers to Marie Oquendo. There, too, two statements are alleged to be false, those in 3, all of those in 3 and in 4, particularly 4A.

Those in 3A are 3A, the name of the employer and the answer, "self-employed" B, "position held and length of present position. Dressmaker, four years."

C is "employment reasonably secure? Yes. Does he work full-time steadily? Yes.

"Has his employment status changed within the past two years: No.

"Has his health interfered with his progress? No."

Then we go to 4, 4A, and 4A asks, "annual earned income from his present employment or business," and there are two boxes, "exact" and "estimated" and there is an "X" in estimated, and the answer to that is "$7800 yearly."

Then we go to the tenth and last of those that I am mentioning at this time; it has to do with count 32 and is contained in exhibit number 27. That has to do with Otto and Marie Spahn.

There, too, there are two sets of false statements. The first are all the questions concerned in 3, and one question contained in 4. Those contained in 3 are as follows:

"3A. The name of the employer. Self-employed.

"Position held and length of position. Length of present connection. Sign painter, years 15.

"C. Is his employment here reasonably secure? Yes. Does he work full-time steadily? Yes.

"E. Has his employment status changed within the past two years? No.

Has his health interfered with his progress? No."

Then in 4, under 4A, "annual income from his employment or business," and then there are two boxes,

"exact" and "estimated," and in the box, "estimated," there is an "X" and the answerto that is"$10,000 yearly."

(continued on following page)

Charge

THE COURT: (Continuing) Now, just to keep ourselves in order, the first one I read to you, if you recall I did mention his name, was Roberto Santos, and that is the one that had the Count 3 in Exhibit 29.

The next one I read to you was related to Count 6 and was part of Exhibit 9, which had to to with Jose Nogueras; and the next one which I read had to do with Count 8 and Exhibit 33, which had to do with Benito Gonzales; and the next one which I talked to you about a moment ago was contained in Exhibit 37 and was as to Count 19, and that had to do with Ismael Rodriguez.

Then the one had to do with Count 13 and with Exhibit 1 was Charles Arilio, and then the last I believe that I should be mentioning again is one containing Count 15 and Exhibit 3, which had to do with Jose Ramos.

I am going to give these to you but I'm going to ask you to please remember my charge in its entirety with regard to false statements, as I have given it to you until now, and I will be referring to it again as I go along. Remember that the entire report is to be taken into consideration.

You have heard evidence concerning the

Hicksville office of Dun & Bradstreet, Inc. The Hicksville office is not a separate legal entity. Rather, the Hicksville office forms part of the legal activity known as Dun & Bradstreet, one of the defendants named herein.

In other words, it's part of Dun & Bradstreet and it cannot in and of itself be charged as a defendant.

Rather, it is part of Dun & Bradstreet and Dun & Bradstreet is the defendant corporation charged.

Now getting to the third essential element of the offense, and that was, if you recall, a purpose by a defendant in question for the false statement, to influence the Federal Housing Administration to insure a mortgage loan. The essence of this element is a purpose or intent to influence.

However, the evidence in the case need not establish that the FHA was actually influenced, but only that the defendant acted with the intent to influence.

What is "an intent to influence"? I think I have described this before, but it is important that I do it here. The words almost define themselves.

Stated in another way, to act with an intent

to influence means to act with the specific intent to affect or to have an effect on the conduct of another.

Now, the word "false" which I defined to you a short while ago, in this context must be considered together with the word "knowingly."

An act is done knowingly if done voluntarily and intentionally, and not because of mistake or accident or other innocent reason.

If you should find that the defendant did not knowingly make a false statement or cause any to be made, you should acquit such a defendant.

The crime charged in this case against these defendants that we are discussing in these different counts requires proof of specific intent before the defendant or the specific defendant can be convicted.

I have already gone into that definition on several occasions and I'm not going to do it now, but keep in mind what I have said about it, specific intent that is, and I shall refer to it again later, anyway, to remind you.

In this case, if while I was jumping from one page to another and my count is right on these statements, which I just referred you to, six of these substantive counts involve an allegation that

more than one statement in this report is false. You recall I told you in some the false statement was in 3, 3(a) and 3(b) and in some just 4(a), but when more than one is mentioned, we circled the whole thing.

I think six of those ten substantive counts involve an allegation that more than one statement in that report is false. Now, this becomes important. In those instances, and if I recall correctly, according to my notes here, Counts 13, 15, 22, 24, 26 and 32 -- if I am wrong, I would like someone to barge in and correct me on those numbers -- in those instances and those particular counts that I just enumerated to you, that's six of them, in which the particular 98(c) report is alleged to contain more than one false statement, I instruct you, as a matter of law, that in order to find the defendant Dun & Bradstreet guilty you must unanimously find, beyond a reasonable doubt -- and this of course is in addition to the essential elements of the crime which I have already defined for you -- that at least one of the specified statements in the particular 98(c) report was, one, actually false, known to be false, two, and as I have defined that, as number two, known to be false, as I have defined that term, and three, were

submitted with the required intent to influence the Federal Housing Administration.

In other words, you have to agree unanimously on one statement. It is not permissible for less than all of you to agree on one statement and the remainder to agree on another statement. If you are to return a verdict of guilty, you must all agree on the same specific statement. It could be all together on more than one, but it has to be a together on any particular statement.

In other words, six of you cannot say "I think the first one is false and the other one is not," because then you do not have a unianimous verdict as to any particular false statement.

So there has to be a unanimous verdict on the particular statement that is alleged to be false. Of course, it can be on one or more than one but it has to be unanimous.

(continued next page)

THE COURT: (Continuing) Now, I charge you, too, that you may consider in this regard only the specific statement or statements which have been identified for you in connection with the specific reports and which are -- reports I have just referred to and which are available to you as they are in the original form and in the entire file which is available to you.

You will bear in mind that the law never imposes upon a defendant in a criminal case the burden or the duty of calling any witnesses or producing any witness or evidence. The burden is always on the Government to prove beyond a reasonable doubt each essential element of the crime charged.

Now, you recall I said Section 1010 and Section 2. Now,we go to Section 2. The defendant Dun & Bradstreet and the defendant Arthur Prescott are also charged in each of these ten substantive counts, witn a violation of Title 18 of the U. S. Code, Section 2, and you will recall I read that section to you before but I will read it again.

It's titled "Principals," and subdivision A of that section reads:

"Whoever commits an offense against the U. S.

or aids, abets, counsels, commands, induces or procures its commission, is punishable as principal."

Now, in order to aid and abet -- and you have heard me say this before when I was talking about the others but repetition makes emphasis -- in order to aid and abet another to commit a crime, it is necessary that the accused wilfully associate himself in some way with the criminal venture, and wilfully participated in it as he would in something he wishes to bring about. That is to say, that he wilfully seeks or acts by -- or acts -- something wrong there, too. I see it. Or that he wilfully seeks by act or omission to make the criminal venture succeed.

Participation is knowingly done if done voluntarily and intentionally, and with a specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done.

Now, the guilt of a defendant may be established without proof that the accused personally did every act constituting the offense or the offenses charged.

You may not find any defendant guilty unless you find beyond a reasonable doubt that every element of the offense previously defined to you in my

instructions was committed by some person or persons and that the defendant participated in its commission and that the defendant had the requisite knowledge of the false statement and the intent to influence as defined also in my instructions.

Now, as to the counts we have been discussing involving statements concerning employment and/or income therefrom, contained in the credit reports, which I have referred to, the defendant Dun & Bradstreet is charged with the offense of making a false statement in violation of Section 1010.

The defendant Arthur Prescott is charged with aiding and abetting the commission of the offense. Therefore, you should first determine whether or not the defendant Dun & Bradstreet through the actions of the credit reports, reporting manager, and Arthur Prescott, the district manager, committed the offense.

If you find that it did not, then you must acquit Arthur Prescott. If you find that Dun & Bradstreet through its employees or as I told you through the others, did commit the offense, then you should consider whether the defendant Arthur Prescott aided and abetted the commission of the crime with

the requisite knowledge and intent.

Now, in two of these ten credit reports contained in the ten substantive counts against these defendants, Counts 15 and 22, the Reporter who wrote the credit report has not been identified by the evidence in this case and you recall, as we went along in hearing evidence, they talked about a number of the reporter. There were two -- I believe, two, yes, two blanks. So there was never any evidence to prove who the reporter was in those two particular counts.

Therefore, you may not apply the aiding and abetting instruction to those counts. That's that subdivision A that I just read to you of Section 2.

As to those two counts, however, you may consider the second subdivision of Section 2, which I have not read, and that second subdivision reads, Section 2, subdivision B, which reads as follows:

"Whoever wilfully causes an act to be done which if directly performed by him or another would be an offense against the United States is punishable as a principal."

Therefore, in order to cause another person to commit a criminal act, it is necessary that the

accused wilfully do or wilfully failed to do something which, in the ordinary course of business or employment, of such other person, results in the other person's doing something the law forbids or failing to do something the law requires to be done.

An act or failure to act is wilfully done if done voluntarily and intentionally and not because of mistake or accident or other innocent reason. As applied to this case, you should determine whether or not the defendant Arthur Prescott wilfully issued instructions to the reporters in the office, which in the ordinary course of business, or employment of the Hicksville office, resulted in the preparation and writing of a credit report containing the false statements concerning employment and/or income therefrom, and whether or not the defendant Arthur Prescott had the requisite knowledge and intent discussed earlier.

If you find that the evidence does not establish this beyond a reasonable doubt, then you must acquit the defendant Arthur Prescott and the defendant Dun & Bradstreet on the count in question. If you find that the evidence does establish this beyond a reasonable doubt, then you should find the defendant

Arthur Prescott guilty on the count in question.

If you so find, then you should consider whether or not the defendant Dun & Bradstreet committed the offense through the actions of Arthur Prescott, under the standard of corporate criminal liability, which I described to you earlier in this charge.

Now, I have defined some words and told you I would redefine them later but I think at this point I am going to define certain words again, because they are important in the consideration of the essential elements in these particular charges that we are discussing. And the first is the word "knowingly."

Knowingly means that the act was done voluntarily and purposely and not because of mistake or accident or other innocent reason. Knowledge may be proven by the defendant's conduct and by all the facts and circumstance surrounding the case and the purpose of adding the word knowingly was to insure that no one would be convicted for an act done because of mistake or accident or other innocent reason.

And as stated before, with respect to such an offense, as charged in this case, specific intent must

be proved before there can be a conviction, and I am not going to define specific intent again because it has been defined several times but I will define it later on in the charge, when I go to the next catagory or the next group of defendants. And then you will remind yourself of that definition.

Intent is a necessary ingredient, so that I am not skipping that because I am treating it lightly. It is important. Intent is a necessary ingredient of the offense. Whether such intent existed is a question of fact which you must explicitly find from the facts and all the surrounding circumstance.

If you find that the defendant or defendants acted by mistake, inadvertency or other innocent reason, then he cannot be charged with knowingly committing the offense. In determining the issue of intent, also, you are entitled to consider any statements made and acts done or omitted by the accused, and anyone involved in those conversations that had to do with those particular facts and circumstance as you have heard evidence of and as you will remember.

And all the facts and circumstance in the case which may aid you in your determination of a particular

defendant's state of mind.

And you can take into account similar acts and transactions that -- if any were produced in the evidence which you may remember on your own. But remember again -- and this is a repetition paragraph but it is important, as to each person involved -- the jury will bear in mind that the law never imposes upon a defendant in a criminal case the burden or the duty of calling any witnesses or producing any evidence.

The burden is always upon the Government to prove beyond a reasonable doubt each essential element of the crime charged.

Now, I think I am going to proceed to the last segment of my charge but I think this is as good a time as any to take a short recess and then we will come back and see what I can do with the balance.

Remember my admonition, please. I will call you back in a few minutes.

(The following occurred in the absence of the jury.)

THE COURT: We will take a short one. Ten minutes.

(Recess taken.)

THE COURT: I almost wasn't able to go along -- or go ahead, if I had not jumped back quickly enough.

If my memory serves me right, I have today discussed the cases that involve Mr. Cronin, Mr. Jankowitz, Dun & Bradstreet and Arthur Prescott, which are four groupings, and I realize too that I asked you to pay very strict attention, and I certainly know you have, and I also realize from having prepared this myself -- I know that it's difficult to absorb as we go along unless we get an opportunity to so absorb, so I'm going to go as long as I know you are tired -- until I know you are tired, if you know what I mean, and I'm not going to ask you, and then we'll go over till Monday and complete it Monday, because I think my charge with regard to the subject matter here is extremely important, and you must, you just must take in every part of it and listen very carefully. So I'm not going to just burden you to such an extent that it's going to go through one ear and out the other. I want you to really understand before I turn over the reins to you and say, "Now you begin to deliberate."

And I'm going to go a little while, and then I'm going to adjourn until Monday. It's impossible for me, as I see it, as I see it now, to complete my

charge today.

MR. BRODSKY: If your Honor please, may I ask for a sidebar conference?

THE COURT: Yes, you may.

MR. BRODSKY: For a moment. Thank you.

THE COURT: Sure.

(Discussion sidebar.)

THE COURT: Yes?

MR. BRODSKY: Maybe I'm being presumptious, your Honor, but from your remarks I take it that you will not deal with Harry Bernstein?

THE COURT: Yes, I will. I am at that section now where I'll be dealing with Harry, Rose, Eastern Service, Behar and Cardona, and it encompasses --

MR. BRODSKY: But your Honor, understand how unfair it would be --

THE COURT: To break in the middle?

MR. BRODSKY: No, to leave them for Monday and start fresh with them on Monday.

THE COURT: In other words, you don't want me to start with them now?

MR. BRODSKY: Yes, I want you to start and finish with them.

THE COURT: Well, I can't.

MR. BRODSKY : They should be treated the same way as the other defendants.

THE COURT: If you want, I will listen to your request that I start on Monday and finish on Monday.

MR. BRODSKY : No, on the contrary.

THE COURT: What is the purpose?

MR. BRODSKY: The purpose is that --

THE COURT: If you think I'm going to go beyond the time that seems reasonable to me, I'm not going to.

MR. BRODSKY: No, but you place some at a great disadvantage. Monday morning the jury comes in fresh, they may have forgotten all about the other defendants, and they have fresh in their minds about Eastern Service, all they have in their minds is Eastern Service. I think that's highly unfair, especially since Eastern Service was No. 1 on the indictment, Judge, and Harry Bernstein.

MR. SOVIERO: No, Harry Bernstein.

MR. BRODSKY: I said that. And you start from the bottom.

THE COURT: I'll go as far as I can, and when I feel I've had it, I'm going to quit on my own.

MR. BRODSKY: I respectfully except.

MR. KLEIN: I join in Mr. Brodsky's remarks, your Honor.

MR. SOVIERO: All the defendants affected, if it please the Court.

(End of discussion sidebar.)

THE COURT: May the record note it is now 3:10 in the afternoon.

Now, ladies and gentlemen of the jury, I shall continue. The defendants on trial in this case that I have not yet mentioned thus far in my charge except by way of reference in taking up the other defendants' parts of the case are Harry Bernstein, Rose Bernstein, also known as Rose Shorenstein, Eastern Service Corporation, Florence Behar and Melvin Cardona. I shall discuss them together in this portion of my charge.

For the purpose of this trial Mr. Harry Bernstein is with other defendants named charged with violation of Section 1010 and Section 2 in one count, Count 25.

The defendants Eastern Service and Mrs. Florence Behar are each with other named defendants charged with violations of the same sections, namely 1010 and 2, in 18 counts. They are Counts 2, 4, 5, 7, 9, 10, 12,

14, 16, 17, 18, 20, 21, 23, 25, 27, 28 and 31.

The defendant Melvin Cardona with other named defendants is charged with a violation or violations of the same sections, and in 17 counts. They are Counts 2, 4, 5, 7, 10, 12, 14, 16, 17, 18, 20, 21, 23, 25, 27, 28 and 31.

Remember the exhibit that I told you about that I would be sending in with you, the list of the different defendants with the number of counts, so when I rattle off these numbers you will find it on the particular page with that particular defendant's name.

In addition to these alleged Section 1010 and Section 2 violations, the defendant Harry Bernstein, the defendant Rose Shorenstein, the defendant Eastern Service Corporation and the defendant Florence Behar, with other named defendants, are charged with separate violations of Section 201(b)(1) and Section (2). But I'm going to discuss them with you now in the two categories, the 1010, the false statement counts, and the 201(b)(1), and two counts a little later on. Right now I'll take in just the Section 1010 counts as to the defendants named, namely Mr. Bernstein, Eastern Service, Mrs. Behar and Melvin Cardona.

All the Section 1010 and 2 violations, against Harry Bernstein 1, Eastern Service Corporation 18, Florence Behar 18 and Melvin Cardona 17, are identically worded except for the date alleged in each count against them, the other defendants named with them and the location of the property alleged.

Since the four defendants are named -- namely the four that I just mentioned -- are named in Count Two, I shall read Count Two. Count Two reads as follows:

"On or about the 27th day of November 1968 within the Eastern District of New York the defendant Rose Bernstein, also known as Rose Shorenstein, Harry Bernstein, Florence Behar, Patricia Buckley, Ortrud Kapraki, Melvin Cardona and Eastern Service Corporation, for the purpose of influencing the FHA" -- Federal Housing Administration -- "of the Department of Housing and Urban Development to insure a loan and advance of credit by the defendant Eastern Service Corporation, did knowingly make, pass, utter and publish false statements in an application for mortgage insurance on property located at 440 41st Street, Brooklyn, New York," and that charge in Count Two is brought under Title 18 of the United States Code,

Sections 1010 and 2.

Now, as I have just told you a few moments ago, Harry Bernstein is charged in one count. Eastern Service and Florence Behar are separately charged in 18 counts, and Melvin Cardona is charged in 17 counts.

Now, that sounds like we have one, 18, 18 and 17, for a total of 54 counts.

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That is not so. We really have 18 counts wherein they are named, one of them in which Harry Bernstein is named for the purpose of this trial, all 18 in which Eastern Service and Florence Behar are named for the purpose of this trial, and 17 of them in which Melvin Cardona is named for the purpose of this trial.

Now, I told you earlier that I would be giving you a memorandum, the so-called -- I couldn't use any other definition for it so I called it a memorandum of your verdict, and I called it that for the purpose of the want of a better name. Each count will be listed separately, and under each count will be the name of the defendant or defendants that you will be concerned with in each of these 18 counts, as their or his or her particular guilt or innocence, and of course you can see that too from the other exhibits that I talked to you about, which I mentioned just a few moments ago, what the particular counts are against each of these four defendants.

Therefore the 18 substantive counts I have enumerated charged the defendant Harry Bernstein in one, the defendants Eastern Service and

Florence Behar in all 18, and the defendant Melvin Cardona in 17, with a violation of Title 18 of the United States Code, Section 1010 and Title 18 of the United States Code, Section 2.

Now, I have mentioned SEction 1010 several times, but I must repeat it. That section states in part, pertinent to this case, and particularly to these 18 counts and the four defendants I have just mentioned, as follows: "1010: Whoever for the purpose of" etcetera, etcetera "or for the purpose of obtaining any mortgage insured by such department, or for the purpose of influencing in any way the action of such department, makes, passes, utters or publishes any statement knowing the same to be false shall be guilty of an offense against the United States."

Now, as I stated to you earlier in my charge, this section has nothing to do with defrauding the government or whether the government is actually defrauded. This statute is pinpointed at the applications. It makes it a criminal offense to make a false statement in those applications knowing it to be false.

It is the purpose of this statute to allow

the government officials who insure these loans to rely on the applications and representations in making a determination as to whether or not a loan should be insured under our laws, or under the laws.

Now, the crime has three essential elements, each of which the government must prove beyond a reasonable doubt, and this applies to each of the 18 counts and as to each defendant.

The essential elements are as follows:

First, the making, passing, uttering or publishing of a false statement on or about the time mentioned within and the place referred to in the indictment, and in each of these counts;

Second, knowledge by the defendant in question that the statement is false;

And third, a purpose by the defendant in question for the false statements to influence the Federal Housing Administration of the Department of Housing and Urban Development to insure a mortgage loan.

Now, the first element of the offense is the making of a false statement, and I am going to repeat something that I repeated earlier, but

it will be in context with these particular defendants that I am talking about now.

Of the various categories of statements as to which you have heard testimony, you are to limit yourselves to only two categories in determining whether the first element of the offense is met. The first category, there are statements concerning employment and income therefrom, and the mortgagee's certificate contained in the application for mortgage insurance. That is the credit application, form number 2900-1, and the attached exhibits.

And in the second category are the statements concerning employment and/or income therefrom contained in credit reports. And it was this second category that I talked to you about earlier in my charge, where I discussed the charges against Dun & Bradstreet and Arthur Prescott. But for the purpose of this part of my charge we are interested in the first category of statements.

Now, in this section of my charge I am again going to refer to the same credit reports that were referred to by Mr. Bashian in his summation, and I am going to come to them in a few minutes,

but I don't want to do it at this particular moment. I am going to hold it up until I find a better spot for it. But I will be talking about the particular 2900 forms which were discussed and with which we did the same thing that we did with the ones that I talked to you about, the factual data reports, when I talked to you about those particular reports when I was discussing Dun & Bradstreet and Arthur Prescott.

And in each of these I did the same thing, put the count number, the exhibit number, and then circled the parts that are alleged to be false statements by the government. I will come to that in a few minutes, because I want you to get that information in the context that I did with the other groupings, when I told you that I wanted you to keep in mind the entire charge with regard to that before you get to the various false statements as alleged.

Now, a statement is false if untrue when made and then known to be untrue by the person making it or causing it to be made. The word false must be considered together with the word knowingly, and an act is then knowingly if done voluntarily

and intentionally, and not because of some mistake or accident or other innocent reasons.

If you should find that the defendant with whom you are concerned in a particular count did not knowingly make a false statement or cause any to be made, you should acquit the defendant of that charge. And this rule applies to each count and to each defendant.

Now, as applied to the first category of statements which we are concerned with, involving charges against the defendants Harry Bernstein, Eastern Service Corporation, Florence Behar and Melvin Cardona, you must determine whether or not there was any statement as to employment or income therefrom or the mortgagee's certificate in the credit application and/or the exhibits attached to the application in question which was false at the time the application was submitted by Eastern Service Corporation and received by the Federal Housing Administration.

Now, the second essential element of the offense is that the particular defendant knew that the statement was false at the time it was made, passed, uttered or published.

Now, as I said to you before, and which I shall repeat, knowledge is not something that you can see with the eye or touch with the finger. It seldom is possible to prove it by direct evidence.

As to most of the defendants, as I indicated to you earlier, the government relies largely on circumstantial evidence to establish knowledge of a false statement.

And deciding whether a particular defendant under consideration by you knew whether or not a statement was false, you should consider all the circumstances of the transactions and scrutinize the entire conduct of the particular defendant at or near the time the offense is alleged to have been committed.

How did he conduct himself? Do his actions betray guilty knowledge of a false statement, or are his actions those of a duped innocent man?

Now, the requirement of knowledge may be satisfied in more than one way. First of all, it may be satisfied by proof beyond a reasonable doubt that a defendant had actual knowledge of the falsity of a particular statement. And that's for you to determine from the evidence that was

produced, as to whether or not any one of them had actual knowledge.

However it is not necessary that the government prove to a certainty that a defendant knew a statement was false. Although guilty knowledge cannot be established by proof of mere negligence on the part of a defendant, such knowledge is established if the defendant was aware of the high probability that a statement was false, unless that defendant actually believed that the statement was not false.

In this regard you may consider whether a defendant deliberately closed his eyes to what otherwise would have been obvious to him. No person can intentionally avoid knowledge by deliberately closing his eyes to what otherwise would have been obvious to him.

Thus if you find beyond a reasonable doubt that a defendant acted with a conscious purpose in avoiding learning whether a statement was true or false, the requirement of knowledge would be satisfied.

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Finally, in the contest of this case there is a third way of satisfying the requirement of knowledge. Where a person who makes, passes, utters or publishes a false statement is under an affirmative duty to investigate the element of knowledge is satisfied by proof beyond a reasonable doubt that a defendant recklessly stated as facts things of which he was ignorant, or acted with a reckless disregard of whatever statements made were true.

Now, in the light of the National Housing Act, part of which I read, and about which you heard testimony from Mr. Hipps, I believe, and possibly Mr. Sanders, the Federal regulations which were set forth in the eligibility requirements for approval of mortgagees who submit applications to the FHA and which set forth eligibility requirements for mortgagors, the instructions contained in the mortgagee's handbook, the requirement that a mortgagee certify that all information in an application is true and complete to the best of its knowledge and belief, and the underlying policy of reliance by the FHA on the mortgagee to submit complete and truthful information, you may find that the FHA program places a duty on the mortgagee to investigate and exercise proper

credit judgment with respect to statements contained in applications for mortgage insurance submitted to the FHA.

Now, if you find that there is such an affirmative duty, then the standard of recklessness, which I mentioned earlier, is applicable to the defendant Eastern Service Corporation, which is an approved mortgagee.

You should also in that regard consider what persons played a role in setting the policy of Eastern Service Corporation with respect to credit applications, and what person had the responsibility to sign the mortgagee certificate on behalf of Eastern Service Corporation. Also, in this regard you may determine whether or not the evidence shows beyond a reasonable doubt that the defendants Harry Bernstein and Florence Behar occupied such a position. You may find that any person in such a position had an affirmative duty to insure that statements made in the application were true, and if you so find, then the standard of recklessness is also applicable to such a person.

The third essential element of the offense, which I described to you earlier, is a purpose by the defendants Harry Bernstein, Eastern Service Corporation, Florence Behar and Melvin Cardona for

the false statements to influence the Federal Housing Administration to insure a mortgage loan. The essence of this element is a purpose or intent to influence.

The Government need not prove as an element of the crimes that the defendants' false statements actually influenced the FHA of the Housing Urban Development to insure the loans, but only that the defendant, or the defendants, acted within intent to influence.

To act with an intent to influence, as I indicated to you before, means to act with specific intent to affect or have an effect on the conduct of another.

At this point I will define specific intent again, and as I told you I skipped it several times and I will do it later so that you will be reminded of it, and it becomes important in this section of my charge because specific intent hereto must be proven.

The crime charged in this case requires proof of specific intent before a defendant can be convicted. Specific intent, as the term implies, means more than the general intent to commit the act. To establish specific intent the Government must prove that the

defendant knowingly did an act which the law forbids or knowingly failed to do an act which the law requires, purposely intending to violate the law, and from other similar acts and transactions, if any, as they have, if any, been adduced before you by the testimony in the case.

Such intent may be proved by circumstantial evidence, direct evidence or a combination of both circumstantial and direct evidence. I described and defined these terms earlier in my charge and what standard to apply with regard to them. I told you then that direct evidence is such evidence as is given by an eyewitness, by the exhibits in evidence and by stipulations consented to by both sides in your presence.

Circumstantial evidence is the proof of a chain of circumstances pointing to the commission ofthe offense. And to repeat what I said earlier, the law makes no distinction between the direct and circumstantial evidence but simply requires that before convicting a defendant you, as jurors, should be satisfied of the defendant's guilt beyond a reasonable doubt from all of the evidence in the case.

While witnesses may see and hear and so be

able to give direct evidence of what a defendant does or fails to do, there can, of course, be no eye-witness account of the state of mind with which the acts were done or omitted.

What a defendant does or fails to do may indicate intent or lack of intent to commit the offense charged.

In determining the issue as to intent, you the juror is entitled to consider any statements made and acts done or omitted by the accused and all the facts and circumstances in evidence in the case which may aid you in your determination of his or her state of mind, including any similar prior acts and transactions.

These four defendants, Harry Bernstein, Eastern Service Corporation, Florence Behar and Melvin Cardona, are also charged in each of the said 18 counts with other defendants named in each of those counts, with a violation of Title 18 of the United States Code, Section 2, which states as follows -- I'm going to stop right there and go back and then return to this particular portion because I want to go into the 2900 forms at this point because I have discussed the question of false statements and your duty with

regard to your determination and your deliberations regarding that.

So I will go over each of these 18, I believe there are, 18 statements -- 2900 forms, rather. As I said earlier, each of them represents the original with its attached papers in an exhibit which is an FHA file. The original FHA file is here. You can see the FHA file, and I would prefer that you look at the FHA file and get the original papers because all the original papers are in that particular file and the only reason I am referring to them now with you, with only the particular papers that I have described before me, is that I have again circled in red those parts which it is alleged are false and which you must make your determinations from based upon those false statements.

And here again I must refer to you, as I did in discussing the statements from the factual data statements that we talked about earlier, that you are to take the whole of the testimony with regard to them that was introduced in evidence and take the whole of the evidence in your determination in arriving at your conclusion.

I do this merely to pinpoint what is alleged

to be the false statement counts. The first one is the form 2900, which is the mortgagee's application for mortgage approval, and it is contained, the original is contained in Exhibit 29 and relates to Count 2 and has to do with Heriberto Santos.

Here the statements alleged to be false are the statements which are circled in red and in this first one the statements which are circled in red are under the heading of employment, and circled are "husband's occupation. Auto mechanic. Employer's name and address. American Gas Service Station, 496 Fourth Avenue, Brooklyn, New York. Years employed. Three years."

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Then over on the other side of that application under box 9, under the words "Monthly income" circled is "Husband's base pay. $585." Then also circled on that application under number 18 is the mortgagee's certificate, and I will read just one so I don't have to repeat each one of them, and they are all identical to the mortgagee's certificate which is part of the printed form.

"18. Mortgagee's Certificate. The mortgagee certifies that all information in this application is true and complete to the best of his knowledge and belief." And the signature is Florence Behar. Typed Florence Behar -- typed under Florence Behar, assistant vice president. Dated, November 18, 1968.

I'm going to give you these two, but in the same fashion as I am going to give you the other ten that I referred to, the other ten factual data reports. Before I give it to you, I must tell you that attached to this one is the request for verification of employment, which is signed by the employer, and I am not going to read it, but I am going to ask you to read it because it is part of the verification of employment concerning

this particular statement which is alleged to be false, namely, the American Gas Service Station, Auto Mechanic, and this has to do with the American Gas Service Station, so you can read both parts and I will give it to you, but I again tell you to keep all of my charge in mind regarding false statements and apply that charge to the facts as you find them, but keep the whde of this 2900 application in mind and the file that it is contained in, namely, exhibit 29.

The second one has to do with Count 4 and it is contained in exhibit number 25, and it relates to Ramondo Garcia. There again is circled the employment section under number 8, the husband's occupation. It states Butcher Helper. "Employer's name and address. Gregory Meat Wholesale, 108-30 37th Drive, Corona, New York. Years Employed. 3." Then on the other side number 9 under monthly income circled is "Husband's Base Pay. $500." Then again we have circled the mortgagee's certificate, which I need not repeat, but again it is signed by Florence Behar, the Assistant Vice President, on the 26th of November, 1968.

Attached to this 2900 form application is

again the request for verification of employment, which is filled out by Gregory Milan on September 10, 1968, referenced to Gregory Meat Wholesale, and the title Butcher's Helper, Ramondo Garcia. I ask you to read both when you read each of these and remember what I said on the first occasion, all of the testimony, not only just the three circled statements, everything that you heard regarding them should be considered.

The third one relates to Count 5 and is contained in exhibit number 9 and relates to Jose Nogueras. There there are several things on the line. In box 8 the words "Husband's Occupation" are underlined, but then it has two occupations but circles part-time -- part-time employment, I guess that is part-time employment, or part employment, you read it as you like, "Part Employment as self-employed Painter and Decorator, 416 38th Street, Brooklyn, New York, for 8 years."

And then on the other side under monthly income in box 9 is circled "Other Earnings. Explain." Then typed out is the part employment, which I guess I just referred to, and the amount there is $678.31, and again circled at the bottom

under number 18, the mortgagee's certificate, which is again signed by Mrs. Florence Behar, the Assistant Vice President, on November 20, 1968.

Attached to that 2900 form which you will have is the Blowe's Income Tax Service statement. I am going to not read them and I just refer them to you and ask you in reading this particular 2900 form to read also the Blowe P & L statements and Mr. Blowe's letter attached thereto.

Again, I may not have to repeat this each time, remember all the testimony, remember all the testimony you heard regarding this particular transaction. In addition to that, I have just pointed to you, and also, if you want, get the original papers from the exhibit and have the whole of the FHA file in your possession.

The next refers to Count 7, and contained in exhibit 33, and relates to Benito Gonzales. There again is the part-time employment where under 8 the words underlined are "Husband's Occupation" and circled only is the following "Also selfemployed." It has here Bems, B-e-m-s, I think that was referred to as Bems, but it says here B-e-m-s, Bems Moving Company, 116 Bergen

Street, Brooklyn, New York, for five years" and then going over to box 9, circled under the words "Monthly Income" are the words "Other earnings explained. Part employed. $473.25." And then circled again at the bottom is mortgagee's certificate signed again by Mrs. Florence Behar, Assistant Vice President, on November 15th, 1968.

It would be interesting to note that Benito Gonzales' signature -- I think that is his signature -- is in the wrong place and so is Florence Behar's in the wrong place, but they have been reversed and the writing is still referenced to the mortgagee's certificate.

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THE COURT. (cont.) And here again attached to this 2900 form are the Blow Income TAx Service papers, which I refer you to again and which I think ought to be taken into your consideration at the same time you take into consideration this 2900 form, and I ask you please not to forget to take into consideration all the testimony, again in the same context as I gave it to you earlier, so I don't have to keep repeating the same words each time.

The next one has to do with Count 9, Exhibit 49, contained in Exhibit 49, the 2900 form is, anyway, the original, and relates to Henry Marshal and there again circled items are employment, number eight section. Husband's employment, husband's occupation, self-employed. Employer's name and address, General Contracting, 345 48th Street, Brooklyn, New York. Years employed, 8.

Then over on the other side under monthly income, husband's base pay, $1057.87, and also circled at the bottom is the mortgagee's certificate signed by Florence Behar, Assistant Vice President, on January 6, 1969, and attached to that 2900 form are the P&L statements by Blow, which I again remind you to take into consideration as you

go over this 2900 form, and the other testimony that you have heard regarding that particular transaction.

The next applies to Count 10, and it is contained in Exhibit 7 and applies to Fidel Rodriguez. There again the 2900 form application circles under the word employment, husband's occupation, self-employed. Employer's name and address, Body and Fender, 160 26th Street, Brooklyn, New York, and then over in box 9, under monthly income, husband's base pay, $1000. And then circled at the bottom, under 18, mortgagee certificate, signed by Mrs. Florence Behar, Assistant Vice President, on December 16, 1968, and attached to this 2900 application are Blow Income Tax Service papers, the P&L statements, the 1040 income tax return of Fidel and Virginia Rodriquez, 1967 return, the profit and loss statement, which is attached to the income tax returns for the year 1967. Another one of the Federal's attached to the income tax return.

It is a full income tax return that would be sent in by a taxpayer.

And also attached is the New York State Income Tax return for the year 1967 of Fidel and Virginia Rodriguez, and these attachments, like the others I

have talked to you about, must be considered by you in your considerations and deliberations, in addition to what I just referred to on the application, and additionally you must also consider all the evidence in the case regarding this particular transaction, and I might add that also attached -- one of the attachments to this particular application is the resident income tax return for the City of New York by the same Fidel and Virginia Rodriguez.

The next is Count 12 and contained in Exhibit 1 and relates to Charles Arillo and there again the circled parts are those under the word "employment," in box 8, where it asks husband's occupation, self-employed. Employer's name and address, contracting, 1454 86th Street, Brooklyn, New York. Years employed, 16.

And over in box 9, under the words "monthly income," husband's base pay, $1084.66. And then also circled on this 2900 application is the mortgagee's certificate, signed by Florence Behar, Assistant Vice President, on January 15, 1969.

Also attached to that is the Blow statement and the P&L statements which I again, in that in addition with the other testimony, ask you to take

consideration of and deliberate on.

The next is Count 14, contained in Exhibit 3, and relates to Jose Ramos, and there, too, circled in box 8, under the word "employment" husband's occupation, self-employed. Employer's name and address, roofer, 244 50th Street, Brooklyn, New YOrk. Years employed, 10. Husband's base pay, $872.93. Circled again in box 18 is the mortgagee certificate signed by Florence Behar, Assistant Vice President, on February 24, 1969.

Here, too, attached are the Blow statements, P&L statements, the Federal income tax return by Jose and Maria Ramos, the New York City resident income tax return by Jose and Maria Ramos and the New York State income tax return for the year 1968, by Jose and Maria Ramos.

I ask you to take those attachments into consideration also in your deliberations concerning this 2900 application, and all the other evidence indicates that you have heard regarding that transaction, and you may refer, of course, to -- it's your prerogative -- to refer to the original file, which is in evidence.

The next one is count 16 and is contained in

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Exhibit Number 70, and relates to Arthur Aikens and Anne Aikens, his wife, and there, too, the statements circled are the statements under box 8, under the word "employment" and husband's occupation, self-employed. Emplcyer's name and address, roofer, 244 50th Street, Brooklyn, New York. Years employed, 9, and they have 9 on the other side, under monthly income, husband's base pay, $1001.30.

Again circled is the mortgagee's certificate, signed by Florence Behar, Assistant Vice President, on April 1, 1969, and here, too, are the Blow P&L statements, attached, the Federal income tax return for Arthur and Anne Aikens for the year 1968, the New York City resident New York tax return for the year 1968, by Arthur and Anne Aikens and the New York State income tax return for the year 1968, by Arthur and Anne Aikens.

Again, my same instruction as to this, as I have given you as to the others.

The next one refers to Count 17 and contained in Exhibit 47 and the circled portions again are in box 8 and box 9.

In box 8, under the word "employment," husband's occupation, self-employed. Employer's name and

address, Carpenter and Cabinet maker. Years employed, 8.

And then in 9 under monthly income, husband's base pay, $1085.45, and again circled is the number 18, mortgagee's certificate, signed by Mrs. Florence Behar, Assistant Vice President, June 11, 1969 and also attached to that application is the 1968 Federal income tax return by Richard and Carol Bacon, the New York State income tax return for 1968, again by Richard and Carol Bacon and the New York City income tax return for the year 1968, again by Richard and Carol Bacon.

Did I say "Blow's statements" originally? If I did, it is not so. It is J.E. Abad, Associates, statements, the P&L statements by Abad.

Here again I refer you to what I have already said so many times with regard to each. You take the whole thing plus all the testimony you heard, plus the file, which is Exhibit 47.

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THE COURT: (Continuing) The next relates to Count 18, and is contained in Exhibit 37, relates to Ismael Rodriguez and again circled portions are in Box 8 under the word "Employment, husband's occupation, self-employed; employer's name and address, DBA," that means doing business as, "electrical contractor, 244 49th Street, Brooklyn, New York,"and then in Box 9 on the other side, under "Monthly Income," the husband's base pay, $800 and again in No. 18, signed and circled -- circled the mortgagee's certificate, signed by Florence Behar, assistant vice president. on December 23, 1968. And here attached to it are P&L statements by Blow's Income Tax Service, and the same instructions as to this as I had made in all the others that I have talked about.

And then the next one relates to Count 20, contained in Exhibit No. 5 and relates to Sheltry Holmes. And here again circled in Box 8 under the word "Employment, husband's occupation, self-employed; employer's name and address, Sheltry Cleaning & Waxing Company, 250 50th Street, Brooklyn." I pronounced it literally, Barooklyn, New York, and then over on the other side, circled in Box 9 under

the word "Monthly Income, husband's base pay, $788.04" and also circled is the answer to 18, mortgagee's certificate, signed by Mrs. Florence Behar, assistant vice president on December 2, 1968 and attached to that 2900 form are the Blow P&L statements and the instructions as to this group of papers is the same as I have given you in discussing each of the others.

Now, the next one relates to Count 21 and is contained in Exhibit No. 23 and relates to Carlos Mattos and Sarah Mattos. Again the circled parts are contained first in Box 8 under the word "Employment,"and there it is the second and the lower part of Box 8 that is circled, namely, "Wife's occupation, self-employed dressmaker; employer's name and address, 359 57th Street, Brooklyn; years employed, two plus." And then on the other side, "Monthly income," circled, is "Wife's base pay, $764.69," and circled is No. 18, mortgagee's certificate, signed by Mrs. Florence Behar, assistant vice president, on December 30, 1968, and attached to this 2900 form are the Blow P&L statements and the instructions with regard to this application are the same as I have given you in all the others.

Next is contained -- is Count 23 and is contained in Exhibit 15 and relates to Francisco Rivera and the circled parts, the false statement allegations, are contained in part No. 8, under the word, "Employment," and there the only thing that's circled is the years employed. "Years employed, five years." And then in Box 9, under the "Monthly Income, husband's base pay, $1,141" and also circled is the mortgagee certificate, Box 18, signed by Mrs. Florence Behar, assistant vice president, on December 11, 1968. And hereto attached to this application are the Blow P&L statements and my instructions to you with regard to this are the same as I have given you in the previous 2900 form that I have read.

Again, the next one is Count 25 and contained in Exhibit No. 17, and relates to Maria Oquendo and here in Box 8 again, under "Employment," the circled parts are "Husband's occupation, self-employed; employer's name and address, dressmaker." I guess that refers to herself. I was just going to say, the husband. But that's the part that she is answering because this application is in her name.

"Husband's occupation, self-employed;

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"Employer's name and address, dressmaker. 1263 Evergreen Avenue, Bronx, New York. Years employed, four." And then over in Box 9 under "Monthly Income," circles is the husband's base pay, $1,040.81, and also circled in Box 18, the mortgagee certificate, is signed -- which is signed by Florence Behar, assistant vice president on April 1, 1969 and attached to that 2900 application is the Blow Income Tax Service, P&L statements, and my instructions to you with regard to these papers is the same as it has been in the others that I have discussed.

Have patience; three to go.

The next one is Count 27, contained in Exhibit 11 and relates to Julio Ortiz and the alleged false statements are again contained in Box 8, Box 9 and Box 18 and in 8 under the words, "Employment" circles are "Wife's occupation, part-time self-employed; employer's name and address, alterations. Years employed, eight." Then over in 9, under the "Monthly Income," circled is "Other earnings, explain. Part-time, $357.50," and circled as I indicated is, in Box 18, mortgagee's certificate, signed by Florence Behar, assistant vice president, on March 25, 1969 and attached to this are the

J. E. Abad P&L statements, the income tax return of Julio Ortiz for 1968, Federal return, that is, the New York State Income Tax Return for the year 1968 by Julio and Nilda Ortiz, and the New York City income tax return for the year 1968 by Nilda Rosa Ortiz, and the P&L statement of Nilda Ortiz Nilda Rosa Ortiz, doing business as N.R. Ortiz Alternations.

And as to these papers, I again remind you of my instructions which apply here equally as it does to all the others that I have been reading to you.

The next one is Count 28, contained in Exhibit No. 21, and relates to Enrique A. Perez, and the circled portions are again in the employment section, the income statement and the mortgagee's certificate. Under "Employment" in Box 8, "Wife's occupation," and circled is -- no. I'm sorry. It talks of him and circled are the following words: "Part-time, auto repair, 342 54th Street, Brooklyn, New York - seven years." And then over in 9, under "Monthly Income, other earnings, explain," typed in, "Part-time, 431.90." And circled is the mortgagee certificate, in Box 18, signed by Florence Behar,

assistant vice president on April 16, 1969.

And attached to that are the J. E. Abad P&L statements, the 1968 Federal Income Tax return by Enrique and Josefina Perez, the New York State Income Tax Return for the year 1968 of Enrique and Josefina Perez, and the New York City Income Tax Return for the same people for the year 1968 and with it goes my instruction as has been at each of these that I have read to you prior to that.

(continued next page.)

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1 Now, the last that I'll refer to is Count 31, and it is contained in Exhibit No. 27, and relates to Otto Spahn, and the circled statements are as follows:

In Eight, under "Employment, Husband's Occupation? Self employed. Employer's name and address? Sign painter, 6410 80th Street, Brooklyn, New York. Years employed? 15."

Then over in 9, circled is "Husband's base pay? $887.44."

And circled also is box 18, the mortgagee certificate signed by Florence Behar, Assistant Vice President, on January 31, 1969. And attached to that, and since this is the last I will read again, the mortgagee certificate:

"The mortgagee certifies that all information in this application is true and complete to the best of its knowledge and belief. Signed Florence Behar, Assistant Vice President, January 31, 1969."

And attached to that 2900 form application are Blow's P&L, the tax service P&L statements, which you will consider with the papers. And the instructions as to this are the same as the instructions which I asked you to apply in all the others.

Now, I don't know about anybody else but I know

that I am tired, and I see the heads of many of my jurors nodding at the same time. And I just am not going to continue.

It isn't fair to the jury, especially since under no circumstances -- and I'm only about one-fourth the way down on this segment of my charge, and there is no chance that I would be through at a reasonable hour, so I am going to recess until Monday morning.

Now, ladies and gentlemen of the jury, we'll start off Monday morning. Maybe I might recap a bit Monday morning, so that we will bring each other up to date, but we'll recess until Monday morning.

And again, now, I don't know how to exhort you as strongly as I know how: Please remember my admonition in every respect, and try to put all of them together and take out parts of each one, and put them all together, and that's what I want. It's very important now.

We are getting down to the end of my charge, after which I will be sending you in to deliberate. So that it becomes extremely important that nothing interferes.

And I would also at this time ask you to go over in your own mind -- Don't talk to another juror about

3 it, just go over in your own mind the charge as I have given it to you so that you don't forget it. Try to keep it in mind, absorb it so that you will be able to have the entire charge in your mind when you begin to deliberate.

It's true that I started yesterday and I'm still going, and it will be Monday, part of Monday, and it's very difficult to ask you to do that, but do the best you can, because you must.

O.K., I'll see you Monday morning at 10 o'clock. Enjoy your weekend. And that includes the alternates.

I'm sorry, Mr. Lanni, but the case is not over and I can't excuse you until the charge is complete and the jury begins to deliberate.

ALTERNATE JUROR LANNI: Would you complete the charge by Monday noontime?

THE COURT: I've got my fingers crossed, I hope I can.

ALTERNATE JUROR LANNI: Thank you.

THE COURT: I'll do it if I can, I'll cooperate.

In the meantime, Monday morning for you, 10 o'clock, and for everybody else.

(Jury out.)

THE COURT: O.K.

4 MR. BRODSKY: At this time, if your Honor please, I want to extend the remarks that I made at the sidebar, and I take exception to this entire procedure.

THE COURT: More power to you.

MR. SOVIERO: I join, if it please the Court.

THE COURT: You may. As far as I'm concerned, I just want everybody to know that I'm as human as everybody else, and I also know that the jury is human, and I just don't feel that it's proper to ask a jury to absorb a very difficult and hard-to-understand charge as I have been going at since about 10 o'clock this morning. It just isn't fair, and I know how I feel just deliverying it. It would just be a little too far to press anything.

MR. BRODSKY : That wasn't -- that was just one part of my objection, if your Honor please.

THE COURT: All right, then state your second so I might answer that, too.

MR. BRODSKY: I said it at the sidebar.

THE COURT: Say it again, please.

MR. BRODSKY: That since --

THE COURT: Because I didn't answer --

MR. BRODSKY: There was no reason why my client should be considered last in the charge when he was

first in the indictment.

THE COURT: Mr. Brodsky, you don't listen to my charge at all. If you had, you would know what I said at the very beginning. And now you are trying to tell me that the jury should be told to stay here and complete this charge because your clients are involved.

MR. BRODSKY: That's right.

THE COURT: O.K., we don't understand some things together.

Nevertheless your application is -- I don't have to make any decision --

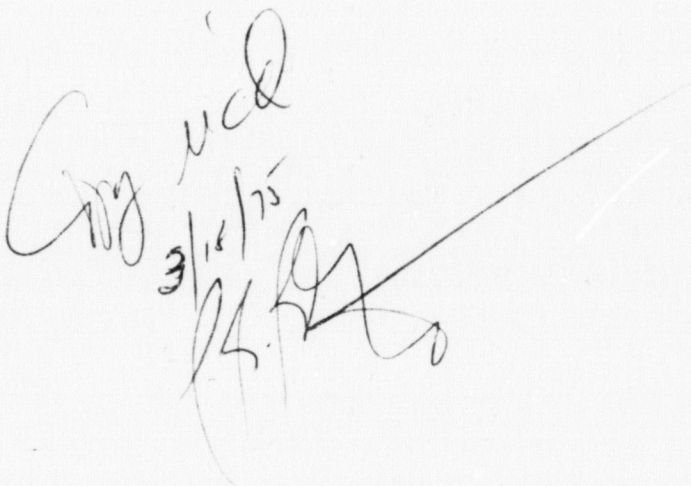
MR. BRODSKY: You don't have to make any --

THE COURT: (Continuing) -- on your application.

We go to 10 o'clock Monday morning.

(Whereupon, at 4:10 the trial was adjourned to Monday, June 17, 1974, at 10 a.m.)

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